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POLICY Review

AUGUST & SEPTEMBER 2002, NO. 114, $6.00

HOW AMERICA SHOULD LEAD
KORI SCHAKE AND KLAUS BECHER

AL QAEDA'S FANTASY IDEOLOGY
LEE HARRIS

THE CHURCH-STATE TANGLE
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FACES OF AMERICAN ISLAM
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ALSO: ESSAYS AND REVIEWS BY
ALVIN RABUSHKA, JOSH LONDON,
AND DEREK CHOLLET

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STANFORD UNIVERSITY

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How America Should Lead

By Kori Schake and Klaus Becher

The end of the twentieth century has been characterized by the exceptional strength of American power in the international system. In all of the major indices of power — economic, military, and political strength — the United States weighs in the heaviest, although the European Union as a whole now holds a slightly larger share of the world's social product than the U.S. The U.S. has the largest and most dynamic economy, the most fearsome and adaptive military, and a public opinion surprisingly cohesive in supporting the government's choices about America's role in the world. While the country doesn't lack political schisms or divisive social issues, it is fundamentally centripetal in its character. These advantages were all likely to reinforce American power in the international system as globalization advances. The September 11, 2001, terrorist attacks on the United States provided a grim but important test of the resilience of American power across these sectors.

America's economic, military, and political reaction to the attacks has

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strengthened U.S. dominance of the international system. The strengths of the U.S. are oddly self-reinforcing in all three aspects of power and have demonstrated a resilience and sturdiness in reaction to the challenges since September 11. However, international responses to the acceleration of American power, while largely positive, suggest the possibility of an anti-American backlash. Outside the U.S., a feeling of dependence combined with uncertainty over the motivations of American power breeds reservations and resistance. It can be difficult even for well-intentioned foreign leaders, operating within their own political systems, to guarantee full-scale allegiance.

For the U.S., the question is how best to use and to preserve its near-hegemonic power; for others, how to deal with a degree of U.S. dominance that is reminiscent, on a global level, of America's role within the West after 1945. No other nation but the United States would have been able to give a similarly forceful, coherent, and successful answer to the existential challenge of September 11. As world reaction demonstrates, American leadership is not only valued but actively sought in response to the severe threats to national and international security that have become apparent in recent months.

We believe that American power could be most effectively perpetuated and expanded, and the interests of America's allies best served, by engaging in the construction of international institutions and practices more closely aligned to emergent security challenges. Current alliances and institutions are not ideally suited to the task. At the same time, the expanse of American power and the constraining efforts of allies are leading America to forgo international cooperation — to its own detriment. The critical tests of American power in the twenty-first century will be whether the U.S. has the vision to lead the design of an international architecture that fosters American interests and the interests of other states, as did the post-World War II architecture, and whether it can do so in ways that share the burden of sustaining this order so that it becomes self-reinforcing.

Economic power

EXPECTATIONS OF A widespread and deep global recession were the conventional wisdom among economic forecasters on September 11. The prospect of a "perfect storm" seemed conceivable: a fragile American economy tilting into recession, weakness in other major G-7 economies, capital flight from the U.S., insufficient liquidity to assure settlements, impediments to the freedom and efficiency of commerce brought about by increased security measures, and clumsy leadership all combining catastrophically to damage confidence in the U.S. economy, extending and deepening the global recession. An economic blow to the American economy seemed, from the targeting of the World Trade Center, an important

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objective of the terrorists and one with reasonable prospects of success.

Masterful orchestration by the U.S. Federal Reserve, the Treasury Department, and Wall Street very effectively minimized the economic impact of the attacks. The Fed issued a statement on September 11 assuring that it remained open and would "meet liquidity needs" of the global financial system, echoing the President's Working Group on Financial Markets (comprised of the chief financial regulators from the Fed, Treasury, Securities and Exchange Commission, and Commodity Futures Trading Commission). In the four days that the U.S. stock markets remained closed, the Fed introduced more than $100 billion of liquidity into financial markets and coordinated an additional $80 billion from other G-7 countries, effectively acted as a lender of last resort to finance uncleared transactions, arranged innovative temporary currency swaps, reduced the overnight rate to the lowest level since 1994, and initiated unusual repurchase operations (short-term loans) to 25 primary banks to ensure the federal funds rate remained near its target of 3.5 percent. Regulators at the SEC temporarily eased restrictions on companies buying back their own shares. The Office of the Comptroller of the Currency encouraged banks to relax credit in order to buffer customers from problems related to the attacks. No major problems were reported in the banking system, and coordination between the government and private-sector firms demonstrated the constructive fluidity of the American economic approach. Treasury Secretary Paul O'Neill concluded that "the financial system functioned extraordinarily well, and I have every confidence that it will continue to do so in the days ahead." It was a magisterial performance of resilience by the American economic system.

NYSE Chairman Richard Grasso concluded that "[the terrorists] have lost."

When markets reopened on September 16, 2001, the Dow Jones Industrial Average experienced its busiest trading day on record and the largest point loss in history: 684 points, or 7.1 percent of value — roughly matching Wall Street estimates and demonstrating an "orderly" sell-off that did not trigger the market circuit breakers to suspend trading. As a percentage of market value, the September 17 losses did not even qualify in the top 10 most significant days of loss, prompting New York Stock Exchange Chairman Richard Grasso to conclude that "They [the terrorists] have lost."

Moreover, the American economy is, to a greater extent than most other developed economies, driven by consumer spending and market performance. Consumer spending accounts for two-thirds of U.S. economic activity; the U.S. economy therefore has much greater exposure to variations in consumer confidence. The American economy had been in a "rolling recession" across various industries for about six months and was already fragile — consumers were beginning to have concerns about the stability of their

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employment and sufficiency of savings even before the attacks. Business investment and working capital had been diminishing, stocks and exports had been declining, while at the same time unemployment was rising.

Consumer confidence and thus spending had been the float for the American economy. Even a small diversion from spending to consumer savings would dull the prospect of an economic recovery, absent major revivals in restocking business inventories or corporate earnings. If consumer savings were to rise even slightly (from zero to perhaps 3 percent), it would substantially reduce the likelihood of a recovery in the near term. Reassuring Americans was therefore a paramount objective in minimizing the economic impact of the September 11 attacks. While the president's repeated instructions to Americans to go shopping if they wanted to do something useful for the country in the aftermath of the attacks sounded strange, they acknowledged the fundamental importance to the U.S. economy of consumer spending and appear to have softened the shock effect on consumers.

The bases of U.S. economic power will continue to buttress American power in the international system.

The administration resisted the temptations of fiscal stimulus and shielding companies (other than airlines) from bankruptcy, and Congress failed to approve an immediate stimulus package. The economy seemed nonetheless to begin pulling out of the recession relatively quickly, fueled in part by slumping oil prices, a mild winter, and flat inflation. The Bush administration even capitalized on congressional support to enhance chances of passing fast-track trade promotion authority to negotiate future multilateral deals. In less than two months, the Dow Jones Industrial Average surpassed the September 11 mark and was again hovering around 10,000; the NASDAQ was also rebounding to pre-attack levels of around 2,000.

The impressive agility of the American economy beyond the scope of governmental activity will also reinforce American dominance of the international economic order. Investments made by U.S. firms in anticipation of Y2K problems allowed redundancy of data and communications, reducing the loss in productivity due to the attacks. American firms aggressively used the pretext of the September 11 attacks to reduce earnings expectations and jettison employees no longer affordable in the recessionary environment, spiking unemployment in the near term but quite possibly accelerating the recovery. In March 2001 (the generally accepted onset of the recession) the U.S. unemployment rate was an historically low 3.9 percent; that grew to 5.3 percent in October and 5.7 percent in November 2001, with 8.2 million Americans seeking work.

By the end of January 2002, Fed Chairman Alan Greenspan was confident enough of impending recovery to testify to the Senate that the economy

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was "just at this point turning, as best as I can judge," and that there were "signs recently that some of the forces that have been restraining the economy over the past year are starting to diminish and that activity is beginning to firm." By Greenspan standards, those are shimmeringly positive comments.

Statements by central bankers from the G-7 countries were also consistently calming and helpful in the aftermath of the attacks. The Group of Seven finance ministers committed themselves to "ensuring that this tragedy will not be compounded by disruption to the global economy." The European Central Bank injected $63.4 billion into financial markets and committed to "unlimited funds" should they become necessary. Despite initial dismissals of coordinated interest rate cuts by both EU central banker Wim Duisenberg and UK Bank of England Governor Eddie George, the EU states did, in fact, reduce interest rates in conjunction with the Americans to limit incentives for capital flight from the U.S. These actions demonstrate not only the extent of shared strategic perspective on challenges and the range of solutions by central bankers, but also the degree to which economic elites from the G-7 countries consider the health of the U.S. economy integral to their own economic prosperity. The economies of the G-7 countries are largely linked to the performance of U.S. financial markets and monetary policy. This suggests that the dynamism of the American economy is self-reinforcing in the international economic order. That is, the bases of U.S. economic power will continue to buttress American power in the international system because American success is essential to the economic success of other states in the system.

Military power

THERE WAS LITTLE doubt prior to September 11 that the U.S. military had the means to defeat any organized military fielded against it; operations in Afghanistan added a demonstration of the effectiveness of U.S. forces against asymmetric challenges. Operation Enduring Freedom, while not complete or completely successful, has been an example of the American military's ability to innovate rapidly in response to demanding but unexpected risks in a very inhospitable political and military environment. The U.S. alone in the international system is able to bring focused power to bear with minimum risk of failure and unintended casualties at great distances from support infrastructure. This contrasts sharply with the trends in other leading militaries, further lengthening the imposing shadow of American military power.

The yawning gap in capabilities between America and even the most advanced European militaries — which constitute at least five of the most powerful armed forces in the world — has been evident since the Kosovo operations, during which Europeans convinced themselves that they could

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not have succeeded without the U.S. in the coalition. That European militaries would have failed to coerce Serbia is untrue: It would have looked different from operations in which the U.S. was integral, with riskier prospects, a longer duration, and larger numbers of both combatant and civilian casualties, but Europeans could have imposed their will on Serbia. What is most significant is that European states, even Britain, would have been unlikely to engage with force had the Americans not participated. Europeans have come to measure their military abilities in connection with the United States in NATO rather than relative to potential enemies they would fight. As a result, they have become dependent on the U.S. for some key elements of military power. On their own, they feel weak because they cannot produce the high-intensity juggernaut of American military power; they therefore fail to realize the extent to which their combined military forces would suffice to defeat any potential adversary except the United States.

At its best, the U.S. military is now a laboratory of innovation in warfare.

The gap in capabilities between the U.S. and all other military forces is also growing, and rapidly. Technologies largely based on advances in the collection and processing of information have been percolating into U.S. forces for more than a decade and are just now beginning to affect organization and doctrine in ways that may well "revolutionize" American military operations — and certainly will accelerate the rate of change within U.S. forces. The economy of scale in U.S. defense spending, which stood at about $340 billion prior to September 11 and has been increased to $383 billion in programmed spending for fiscal year 2003, provides a natural advantage. The U.S. now spends more money on defense than the next 10 states combined — and eight of those states are allied or closely aligned with the United States. Commitment of a full third of the defense budget to research, development, and purchase of weapons has provided a panoply of advances (such as night-vision rangefinders, all-weather precision-guided munitions, and unmanned aircraft) that permit U.S. forces to engage enemies from greater distances with greater precision and less risk. Congressional oversight in the 1980s imposed requirements for cooperation among military services and institutionalized a healthy competition among interests within the American military. Moreover, the transition to an all-volunteer force in the 1970s (a process currently underway in most European countries and not yet undertaken in Russia or China) allows the U.S. substantial morale advantages, both in the force itself and in terms of public support.

At its best, the U.S. military is now a laboratory of innovation in warfare, taking advantage of this once-in-a-century opportunity. Key advances during Afghanistan operations have resulted from webbing together information that permits small numbers of forces to work across traditional military

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boundaries (e.g., with Special Forces identifying targets for U.S.-based bombers to drop precision weapons). As a measure of the pace of advance, during the Gulf War, U.S. forces flew roughly 3,000 sorties per day, attacking the same number of targets that 200 sorties per day achieved in Afghanistan operations. Whereas 10 aircraft would be assigned to attack a single target during the Gulf War, in Afghanistan, according to the U.S. commander, Gen. Tommy Franks, a single aircraft would usually be tasked with two targets per sortie. It's as if the world's other major militaries are playing classical music while the U.S. is beginning to play improvisational jazz — which permits greater freedom with the composer's score, changes the relationship of authority between the conductor and the orchestra, increases the demands for virtuosity, sensibility, and flexibility among musicians, and requires the ability to innovate and synchronize simultaneously.

These military advances have enormous political consequences, both for the U.S. and other states, because America can now actually achieve its military objectives more efficiently acting unilaterally than with the assistance of even the closest allies. Other states may be less willing to use force against the U.S., but friendly states may also be less willing to participate in military coalitions in which the U.S. will garner all the credit for success and be at much less risk than other participants. And if other states are unable to make a meaningful contribution to the conduct of military operations, the U.S. is likely to be less interested in accommodating their concerns about how and when to use force.

Political power

PROBABLY NO OTHER statesman in the West would have attempted the overtly religious appeal that President Bush did in his September 20, 2001, speech to a joint session of Congress, asserting that "God is not neutral" in this struggle. And few other publics, especially constituted of such diverse religious affiliations, would have embraced it as enthusiastically as did Americans. Mosque visits, engaging American Islamic leaders, appealing to Americans to live their principles by not judging others by ethnic background or religion, and committing to aggressive law enforcement to protect Muslim and Arab Americans prevented linkages of terrorism with broader Islam and reaffirmed the inclusiveness of American society, reminding people both in the U.S. and abroad of the fundamental virtues of the American way of life.

Americans contributed more than $1 billion in charity to the victims of the attack and managed to draw greater national solidarity from the tragedy. They did not make the connection others did between U.S. policies regarding the Middle East and the attacks, nor did they accept the connection between poverty and terror often asserted by non-American commentators, nor were there calls for isolationism. Americans overwhelmingly reacted to

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the attacks with compassion for the victims, solidarity with the president, and ease with the aggressive U.S. military response. Subsequent to the attacks, President Bush garnered a 90 percent public approval rating, the highest ever recorded for an American president. Moreover, the American public seems committed to fighting terrorism, with 76 percent of the public, according to a September 2001 *USA Today* poll, willing to support a campaign against terrorism even in the expectation of further attacks against the U.S. homeland and estimates of 5,000 U.S. soldiers killed in the campaign. Americans tend to "rally around the flag" in times of crisis, but the intensity of American patriotism in the aftermath of the attacks is an enormous political asset for the U.S., especially with its grounding in the political values of individual freedom, diversity, and tolerance. It demonstrates an enduring resoluteness in the political culture. It also suggests that Americans continue to be willing to shoulder the burdens of their paramount role in the international system, despite its costs.

The intensity of American patriotism in the aftermath of the attacks is an enormous political asset for the U.S.

International reaction to the September 11 attacks will also likely reinforce American willingness to remain dominantly engaged in the international order. NATO's invocation of its mutual defense pledge for the first time in the alliance's history, hundreds of thousands of people holding vigils of sympathy and solidarity around the world, votes of support (even among states wary of American power and motivations) for a U.S. retaliation in the United Nations, and even *Le Monde*'s headline "We Are All Americans Now" were important reassurances to a grieving superpower. Americans were genuinely touched by the support. While the U.S. might have chosen the same course of action with or without international support, it was a timely reminder of the value of other states and of the major international institutions voluntarily supporting American power in the international system.

As the dominant power in the system, the U.S. tends toward unilateral action or action in small coalitions focused on solving specific problems: the defense of South Korea, ensuring free passage of commerce in the Straits of Hormuz, restraining proliferation. Most other states in the system are unable to protect and advance their interests unilaterally, and therefore tend toward international regimes and binding treaty restraints to diminish the value of power. However, the obligations the U.S. undertakes for vulnerable states and in enforcing the desired international order give it a different perspective on security regimes like the ban on land mines and the creation of the International Criminal Court, as well as different risk portfolios for low-end military missions like peacekeeping.

The existence of differences in approach is not particularly problematic;

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they are natural results of the disparities in power and responsibility. However, efforts to stigmatize U.S. unwillingness to be constrained by international regimes raise the important issue of preserving the effectiveness with which the U.S. is able to lead the management of the international order. After September 11, they would signal an alienation from American strategic perspectives that is worrisome, given how beneficial the existing international order is to the interests of the vast majority of states, particularly America's closest allies.

Challenges to U.S. dominance

With so much positive in the equation of American economic, military, and political power, what could go wrong? Given the expanse and dynamism of American power in the international system at this moment, it is unlikely that any state, collective of states, or non-state actors could actually disrupt the American international order. Any potential destruction of American power is likely to be self-inflicted. Just as the American military is now so far superior to other fighting forces that the preponderance of U.S. casualties are incurred in training and by self-committed errors, any diminution of American power in the international system is likely to result from America's own mistakes in managing that power. What should the U.S. avoid doing at this time of its nearly unbounded power? Our analysis suggests six important mistakes to prevent.

First, Americans should not forget that the existing order that produced U.S. dominance is based on the salutary principle that other states advance their own interests by voluntarily supporting the approaches the U.S. advocates, usually on the basis of proper consultation. After 1941, the U.S. worked with its allies to design the post-World War II order such that the vast majority of states that adhered to the political and economic rules benefited from them, achieving both peace and prosperity. By designing the rules carefully, the U.S. created an order that was largely self-enforcing and therefore sustainable at an acceptable price to the United States. States did what was in their interests and furthered U.S. interests at the same time. The voluntary nature of participation reduced the burden on America of sustaining the order. In designing the post-September 11 order, the U.S. should think carefully about how to cement the foundations for sustainable American leadership in ways that benefit others and reduce the current burden on the U.S. for maintaining the international order. While unilateral action is a necessary option for the U.S., enshrining it as an end rather than a usually suboptimal means of achieving American objectives will erode the voluntary commitment of other states to the common aims they share with the U.S.

An example of the potentially catastrophic effects of other states choosing not to foster such common interests can be seen in the potential for an avalanche of U.S. bond selling. America's net foreign liabilities stand at a

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staggering $2.5 trillion, equivalent to 25 percent of the country's GDP. The viability of U.S. government operations is predicated on foreign holders' willingness to continue financing the U.S. current account deficit. While a coordinated multinational effort is extremely unlikely — especially after the self-interested propping up of the U.S. economy demonstrated by major central banks after September 11 — precipitous selling could occur. If foreign holders of U.S. Treasury bonds were to lose confidence in the American government's management of the economy, an avalanche of bond selling could begin. If Japan's banking system were to repatriate large holdings of U.S. bonds, investor confidence could be rattled. It remains essential to American interests for others in the international system to foster U.S. success.

Any diminuition of American power is likely to result from America's own mistakes.

A second mistake would be for America to retreat into isolationism. Such a posture would be self-defeating, not only rewarding terrorists for the attacks but also encouraging other challenges to American power because enemies would perceive a diminished willingness to assert and advance American interests. Fortunately, there are few signs that Americans are having an isolationist reaction. Much of the credit for this goes to solid presidential leadership: As Jeremy Rosner has noted, polls of American public opinion routinely demonstrate that the strongest factor affecting attitudes is the quality of leadership by the president in explaining a situation and outlining a sensible program for solving the problem at a cost commensurate with its importance.

The third mistake to avoid would be permitting into the longer term the impediments the U.S. is currently experiencing in homeland defense. In September, Secretary of Defense Rumsfeld said, "we can either change the way we live, which is unacceptable, or change the way they [the terrorists] live, and we chose the latter." And while the U.S. has retaliated against the al Qaeda terrorists and established a doctrine of imposing regime change on any states that harbor or foster terrorism, protecting the U.S. has indeed changed the way Americans live. Those changes should and can be temporary, but making them so will require pushing out the perimeter of defenses beyond the U.S. homeland. The current burden of defending the American homeland at close range is an unacceptable impairment to America's people and businesses. Support for the government is currently high, and the federal and state governments need to show they merit that confidence by finding better solutions than are currently being employed.

A fourth mistake that could diminish the strength and value of American dominance would be to think too narrowly about the sources and means available to protect and advance American interests. There is a tendency to think about power as equivalent to either force or those tools directly in the

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control of the U.S. government. Gen. Hugh Shelton, the former chairman of the Joint Chiefs of Staff, nicely characterized the problem by saying "the American military is a terrific hammer. But not every problem is a nail." It breaks trust with soldiers, sailors, airmen, and Marines to send them into harm's way without a broader political, economic, and military strategy. Moreover, it dramatically reduces their effectiveness in achieving the political goals for which force was judged necessary. Military force alone cannot, and never could, solve the challenges to American power that will develop in the American centuries. As Edmund Burke said, "the use of force alone is but temporary. It may subdue for a moment; but it does not remove the necessity of subduing again: and a nation is not governed, which is perpetually to be conquered." It only adds poignancy that it was in his 1775 Second Speech on Conciliation with America that he cautioned against equating power and leadership. A broader range of tools must be engaged for the U.S. to maximize the political and economic benefits of establishing an international order.

"The American military is a terrific hammer. But not every problem is a nail."

The U.S. government remains rudimentary in its ability to use the Treasury Department, the Immigration and Naturalization Service, the Customs Service, the FBI, the CIA, the Agency for International Development, the Export-Import Bank, and other directly governmental tools in a coordinated manner. This is unsatisfactory. The American government needs to orchestrate the use of a much wider range of tools with the speed and efficiency with which it employs the military — as its adversaries certainly will. And it needs to engage Hollywood, Wall Street, Madison Avenue, and other engines of creativity and power that characterize American society in ways that the government cannot and should not control but can encourage and facilitate.

The fifth error that would impinge on American dominance would be the traditional route to ruin for hegemonic powers: imperial overstretch — committing the U.S. to security and financial obligations that overtax the vitality of the country. Agreeing to defend too many costly perimeters, placing an inhibiting burden on the economy through tax rates or externalities, sinking too much of the national treasury into military power, overinvesting scarce political attention on countries and issues that do not pose central challenges, failing to creatively engage the central challenges with a sophisticated mix of policy tools, underinvesting in the sustenance of human capital — these have traditionally been the means of eroding the strength of great powers. Balancing the competing requirements of domestic and international well-being and making the decisions about which crises merit a committed intervention will remain a difficult issue for American leaders. The likeli-

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hood of imperial overstretch can be greatly lessened by sharing the burden of responsibility with countries and institutions that have similar interests and are designed to facilitate common action. Effectively, the U.S. has an interest in encouraging the active co-management of the international order with other nations, even being clear about respecting and supporting the lead of others, for example in regions that are not high on the U.S. priority list and are therefore not given sufficient attention and resources by the U.S. itself.

The sixth error that the U.S. should avoid is allowing itself to become convinced that others will always choose to advance their own respective interests rather than trying to prevent the U.S. from advancing its interests. Americans have a tendency to believe the liberal premise that good things go together: Foreign students educated in the U.S. will return home advancing market democracy and individual freedoms; engagement with the U.S. will lead to cooperation; individuals and states are rational decision makers who will seek to maximize their self-interest. While usually true, the breadth and visibility of American power also breed resentment from those not benefiting from its order. Moreover, rationality is not always linear or easy to discern, except in retrospect. The 1973 Egyptian attacks on Israel provide an instructive example: They were a tactical failure, quickly beaten back by the Israeli military, but a strategic victory for Egypt by demonstrating Israel's vulnerability. The U.S. and its allies should be alert for signs of states and organizations willing to sacrifice their own interests in order to harm the U.S. and the U.S.-dominated international system. Ignorance and hubris would prevent the kind of careful analysis of others' motives that responsive maintenance of American leadership requires.

Managing and perpetuating U.S. leadership

If the American-led Century is to become the American-led Centuries, the U.S. needs to foster and promote the sources of American power: the legitimacy and quality of leadership ensured by America's democratic institutions and rule of law, the dynamism of the global economy, the innovative juggernaut of the American military, international respect for U.S. analysis and diplomacy, the sparkling generosity of individual Americans and their charities, the magnetic attraction for immigration that enriches diversity and expands the talent pool, the good sense of the American people, the belief in progress and harnessing technology, the prospect of more capable webbing together of the instruments of power. All the things that have made the U.S. strong show every likelihood of making it stronger — and while America certainly doesn't have all the answers, as a society it is open to finding right answers and correcting its course. The U.S.

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could very likely sustain the current American-dominated international order unilaterally, shedding the constraining and frequently aggravating alliances and institutions. However, that would be a costly way to dominate, and one with which the American public is likely to be uncomfortable. An international order in which other states did not want U.S. dominion and regulation would be a much more burdensome and hostile international order — one much more likely to make American taxpayers feel isolationist, with all the damaging consequences for American well-being.

The genius of the American-designed order established after World War II, which continues to regulate the international system, is that it is both in America's interests and in the interests of other states. The U.S. created an international order that is a positive-sum game: States that accept the rules fostering American power grow richer, safer, and more powerful as well. The NATO alliance, Bretton Woods monetary regulation, the United Nations, the Organization of American States, the G-7, the General Agreement on Tariffs and Trade (whose successor is the World Trade Organization), and networks of bilateral and multilateral trade agreements established American leadership and created venues for influence and enrichment by others.

All the things that have made the U.S. strong show every likelihood of making it stronger.

The U.S. is the strongest power in the international system, and getting stronger. The question is not whether the U.S. will remain the strongest power in the system — it most likely will. A more important question for the U.S. is what kind of international order it wants to preside over. Rousseau says in *The Social Contract* that "the strongest is never strong enough to be always the master, unless he transforms strength into right, and obedience into duty." While it would be decades before even extreme negligence by the U.S. and dedicated efforts by potential challengers could erode the U.S.-dominated international order, much less establish a functioning alternative to it, it is in the American interest to think seriously about whether the existing patterns are sufficient.

What would be the alternatives to the current international order, characterized by U.S. dominance and an alliance framework largely inherited from the Cold War? One alternative, traditionally favored by America's European allies, is a global treaty-based multilateral order building on the United Nations Charter and the general principles of international law. In this order, rules binding on all states would be accepted and norms of cooperation fostered. This approach has the benefit of treating all states equally and, in theory, protecting the weak from the strong. In recent years, however, examples such as the convention on banning land mines and the establishment of an International Criminal Court have proved controversial. From the U.S. viewpoint, two drawbacks make American support unlikely. First, as the

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effective custodial power of the international system, the U.S. continues to have obligations that make it unlike other countries — e.g., to defend the weak from the strong when international law is insufficient to the task. Second, some international treaties proved frustratingly insufficient in verification and enforcement (e.g., the advance of Iraq's weapons of mass destruction programs despite Iraq's membership in the Non-Proliferation Treaty regime and inspections by the International Atomic Energy Agency) and are considered insufficiently robust vehicles with which to trust American interests to the exclusion of other means.

The extension of the existing international order would employ existing alliances to new purposes in order to get current allies to bear a greater share of the burden for new problems. An example of this would be the Clinton administration's enthusiastic but ultimately unsuccessful effort to create a "globo-NATO," engaging America's European allies in a joint effort to enforce shared interests under U.S. leadership throughout the world. This approach has several benefits: America's closest allies are the wealthiest and strongest states in the international system and therefore have much to contribute; they are also those states that have historically most benefited from the U.S.-dominated international system and therefore should be expected to bear a greater burden in advancing common interests. Utilizing existing alliances precludes the difficult architectural work of building new alliances that would be more closely tailored to the current international order. The drawbacks are also substantial: Former colonial powers from Europe and Asia are still unwelcome leaders in many parts of the world and therefore are not optimal as the management team for non-European contingencies; most allies have narrower strategic horizons than the U.S. and are less likely to substantially engage their power beyond their own backyard; and militarily, they often have little to contribute in contingencies far from their home territory.

The U.S. continues to have obligations that make it unlike other countries.

Another alternative international order would require the construction of new alliances that are more closely tailored to the emerging security challenges and incorporate the states important to managing those challenges. Such an order would require the U.S. to identify those countries critical to the success of efforts to master new security challenges like proliferation and terrorism and commit them to a common approach and set of obligations. For example, an anti-terrorism alliance would need to incorporate those countries of greatest strategic importance facing terrorist challenges (such as Indonesia, the Philippines, Pakistan, India, possibly Russia and Colombia) and commit to common action along agreed lines (clarifying obligations to each other; assisting states that want help; imposing regime changes on states outside the alliance that harbor or foster terrorists; developing better

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political, economic, and military tools to combat terrorism; coalition training for use of all the means with which the problem would be engaged; building public support for common action). Given how little most of the key states have in common, their geographic distance from each other, and their difficulties in managing their own domestic challenges, it would require a huge investment of American effort to foster a sense of alliance and create a common approach. However, an international order of functional alliances focused on emerging security problems has four nontrivial benefits: 1) it clearly transmits U.S. security priorities; 2) it provides routine interaction among allies that will facilitate multilateral action during operations and crises; 3) it gives countries with the highest stakes in solving common problems the greatest leverage over American choices; and 4) it allocates American resources much more efficiently — especially that scarcest resource, political attention.

Without deliberate planning, the U.S. will always find itself bearing too great a share of the burden.

A related but distinct alternative to standing functional alliances dedicated to specific problems would be a la carte multilateralism, as advocated by State Department Policy Planning Director Richard Haass. This approach would erode existing alliances but not formally construct replacement structures. Instead, it would have states function like citizen militias or posses, coming together for a limited time with little prior planning to respond to a particular problem. A la carte multilateralism has the advantage of not requiring the large investment in architecture that constructing new alliances would necessitate, and allows exclusion of those states that lack the ability or willingness to contribute to the solution. However, the approach has the substantial disadvantage of being pick-up ball. Without deliberate planning, the U.S. will always find itself bearing a disproportionate share of the burden and responsibility for solving the problem. Moreover, multilateral operations will be more burdensome to make work during a crisis and have less efficiency for being speedily pulled together. Also, non-U.S. leaders will often find it more difficult to muster support at home for such ad hoc missions that do not rest on tested, institutionalized channels of consultation and representation.

The final option would be a primarily values-based international order, gathering countries with common approaches to the responsibilities of government, the liberties and rights of populations, and the basic rules of international behavior. Such a values-based order would function like a collective security forum, in which every state would commit itself to come to the defense of other states that were at risk from any country that did not share the common values. This approach would have the benefit of making commitments only to those states most similar in constitution and outlook, and

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could increase public support in many countries for the use of force beyond self-defense. The problem with a solely values-based approach is that it would exclude some states with common interests if they lack a common basis of values — for example, Saudi Arabia. And an exclusionary strategy denying U.S. assistance may not be the best inducement to nudge states toward American values. An exclusively values-based international order would unduly constrain America's ability to advance its interests and maintain international security by requiring a strict consistency in application.

None of the options is perfect, nor is any of them likely to be adopted to the complete exclusion of alternatives. The world is undoubtedly uncertain enough that the United States and the international system would benefit from a mixed U.S. strategy of expanding the potential solution set without foreclosing alternative options for as long as possible. The exploration of other types of international order serves to highlight the fact that current international institutions are not optimally designed for the management of the current international order. This is not an argument against international institutions, just against the simple perpetuation of the ones that exist now. International regimes and institutions share the burden of advancing American interests and give less powerful states a means of expressing their concerns and affecting the choices, consistent with rules the U.S. voluntarily adopts to regulate the system.

At this time of such a preponderance of American power in the international system, the United States can and should build alliances and international regimes that address its central security concerns and commit to common action with those states that share its interests and willingness to address problems. The time has come to pivot the international system from one that served the interests of the United States and the vast majority of other states well in the post-World War II environment to one that will perpetuate and advance American interests into the next American-led Century. It is manifestly in the U.S. interest to attract and bind other states into voluntarily supporting this international agenda. Americans may not like all those other states wringing their hands with concern about America's behavior in the world and complaining that they are essentially supporting the U.S. agenda. Imagine how much less attractive an international order would be in which the U.S. had to *force* the other states into going along with U.S. choices. Far better that participating states benefit from a system of accepted leadership and see that they can best advance their interests by working with a United States advancing its own.

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Al Qaeda's Fantasy Ideology

War without Clausewitz

By LEE HARRIS

"KNOW YOUR ENEMY" is a well-known maxim, but one that is difficult to observe in practice. Nor is the reason for this hard to fathom: If you are my enemy, it is unlikely that I will go very much out of my way to learn to see things from your point of view. And if this is true even in those cases where the conflict is between groups that share a common culture, how much more true will it be when there is a profound cultural and psychological chasm between the antagonists?

Yet, paradoxically, this failure to understand the enemy can arise not only from a lack of sympathy with his position, but also from a kind of misplaced sympathy: When confronted by a culturally exotic enemy, our first instinct is to understand such conduct in terms that are familiar to us — terms that make sense to us in light of our own fund of experience. We

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assume that if our enemy is doing x, it must be for reasons that are comprehensible in terms of our universe.

Just how unfortunate — indeed, fatal — this approach can be was demonstrated during the Spanish conquest of Mexico. When Montezuma learned of Cortés's arrival, he was at a loss to know what to make of the event. Who were these white-skinned alien beings? What had they come for? What were their intentions?

These were clearly not questions that Montezuma was in a position to answer. Nothing in *his* world could possibly provide him with a key to deciphering correctly the motives of a man as cunning, resourceful, and determined as Cortés. And this meant that Montezuma, who, after all, had to do *something*, was forced to deploy categories drawn from the fund of experience that was ready-to-hand in the Aztec world.

By a fatal coincidence, this fund of experience chanced to contain a remarkable prefiguring of Cortés — the myth of the white-skinned god, Quetzalcoatl. And, indeed, the parallels were uncanny. But, of course, as Montezuma eventually learned, Cortés was not Quetzalcoatl, and he had not appeared on the coast of Mexico in order to bring blessings.

We should not be too harsh on Montezuma. He was, after all, acting exactly as we all act under similar circumstances. We all want to make sense of our world, and at no time more urgently than when our world is suddenly behaving strangely. But in order to make sense of such strangeness, we must be able to reduce it to something that is not strange — something that is already known to us, something we know our way around.

Yet this entirely human response, as Montezuma learned to his regret, can sometimes be very dangerous.

An act of war?

On September 11, 2001, Americans were confronted by an enigma similar to that presented to the Aztecs — an enigma so baffling that even elementary questions of nomenclature posed a problem: What words or phrase should we use merely to *refer* to the events of that day? Was it a disaster? Or perhaps a tragedy? Was it a criminal act, or was it an act of war? Indeed, one awkward TV anchorman, in groping for the proper handle, fecklessly called it an accident. But eventually the collective and unconscious wisdom that governs such matters prevailed. Words failed, then fell away completely, and all that was left behind was the bleak but monumentally poignant set of numbers, 9-11.

But this did not answer the great question: What did it all *mean*? In the early days, there were many who were convinced that they knew the answer to this question. A few held that we had got what we had coming: It was just desserts for Bush's refusal to sign the Kyoto treaty or the predictable product of the U.S. decision to snub the Durban conference on racism.

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Others held, with perhaps a greater semblance of plausibility, that the explanation of 9-11 was to be sought in what was called, through an invariable horticultural metaphor, the "root cause" of terrorism. Eliminate poverty, or economic imperialism, or global warming, and such acts of terrorism would cease.

Opposed to this kind of analysis were those who saw 9-11 as an unprovoked act of war, and the standard comparison here was with the Japanese attack on Pearl Harbor on December 7, 1941. To this school of thought — ably represented by, among others, the distinguished classicist Victor Davis Hanson — it is irrelevant what grievances our enemy may believe it has against us; what matters is that we have been viciously attacked and that, for the sake of our survival, we must fight back.

Those who hold this view are in the overwhelming majority among Americans. And yet there is one point on which this position does not differ from the position adopted by those, such as Noam Chomsky, who place the blame for the attack on American policy: Both points of view agree in interpreting 9-11 as an act of war, disagreeing only on the question of whether or not it was justifiable.

We all want to make sense of our world, and at no time more urgently than when our world is suddenly behaving strangely.

This common identification of 9-11 as an act of war arises from a deeper unquestioned assumption — an assumption made both by Chomsky and his followers on one hand and Hanson and *National Review* on the other — and, indeed, by almost everyone in between. The assumption is this: An act of violence on the magnitude of 9-11 can only have been intended to further some kind of *political* objective. What this political objective might be, or whether it is worthwhile — these are all secondary considerations; but surely people do not commit such acts unless they are trying to achieve some kind of recognizably political purpose.

Behind this shared assumption stands the figure of Clausewitz and his famous definition of war as politics carried out by other means. The whole point of war, on this reading, is to get other people to do what we want them to do: It is an effort to make others adopt our policies and/or to further our interests. Clausewitzian war, in short, is rational and instrumental. It is the attempt to bring about a new state of affairs through the artful combination of violence *and* the promise to cease violence if certain political objectives are met.

Of course, this does not mean that wars may not backfire on those who undertake them, or that a particular application of military force may not prove to be counterproductive to one's particular political purpose. But this does not change the fact that the final criterion of military success is always

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pragmatic: Does it work? Does it in fact bring us closer to realizing our political objectives?

But is this the right model for understanding 9-11? Or have we, like Montezuma, imposed our own inadequate categories on an event that simply does not fit them? Yet, if 9-11 was not an act of war, then what was it? In what follows, I would like to pursue a line suggested by a remark by the composer Karlheinz Stockhausen in reference to 9-11: his much-quoted comment that it was "the greatest work of art of all time."

Despite the repellent nihilism that is at the base of Stockhausen's ghoulish aesthetic judgment, it contains an important insight and comes closer to a genuine assessment of 9-11 than the competing interpretation of it in terms of Clausewitzian war. For Stockhausen did grasp one big truth: 9-11 was the enactment of a fantasy — not an artistic fantasy, to be sure, but a fantasy nonetheless.

A personal recollection

My first encounter with this particular kind of fantasy occurred when I was in college in the late sixties. A friend of mine and I got into a heated argument. Although we were both opposed to the Vietnam War, we discovered that we differed considerably on what counted as permissible forms of anti-war protest. To me the point of such protest was simple — to turn people against the war. Hence anything that was counterproductive to this purpose was politically irresponsible and should be severely censured. My friend thought otherwise; in fact, he was planning to join what by all accounts was to be a massively disruptive demonstration in Washington, and which in fact became one.

My friend did not disagree with me as to the likely counterproductive effects of such a demonstration. Instead, he argued that this simply did not matter. His answer was that even if it was counterproductive, even if it turned people against war protesters, indeed even if it made them more likely to support the continuation of the war, he would still participate in the demonstration and he would do so for one simple reason — because it was, in his words, good for his soul.

What I saw as a political act was not, for my friend, any such thing. It was not aimed at altering the minds of other people or persuading them to act differently. Its whole point was what it did *for him.*

And what it did for him was to provide him with a fantasy — a fantasy, namely, of taking part in the revolutionary struggle of the oppressed against their oppressors. By participating in a violent anti-war demonstration, he was in no sense aiming at coercing conformity with his view — for that would still have been a political objective. Instead, he took his part in order to confirm his ideological fantasy of marching on the right side of history, of feeling himself among the elect few who stood with the angels of historical

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inevitability. Thus, when he lay down in front of hapless commuters on the bridges over the Potomac, he had no interest in changing the minds of these commuters, no concern over whether they became angry at the protesters or not. They were there merely as props, as so many supernumeraries in his private psychodrama. The protest for him was not politics, but theater; and the significance of his role lay not in the political ends his actions might achieve, but rather in their symbolic value as ritual. In short, he was acting out a fantasy.

It was not your garden-variety fantasy of life as a sexual athlete or a race-car driver, but in it, he nonetheless made himself out as a hero — a hero of the revolutionary struggle. The components of his fantasy — and that of many young intellectuals at that time — were compounded purely of ideological ingredients, smatterings of Marx and Mao, a little Fanon and perhaps a dash of Herbert Marcuse.

For want of a better term, call the phenomenon in question a *fantasy ideology* — by which I mean, political and ideological symbols and tropes used not for political purposes, but entirely for the benefit of furthering a specific personal or collective fantasy. It is, to be frank, something like "Dungeons and Dragons" carried out not with the trappings of medieval romances — old castles and maidens in distress — but entirely in terms of ideological symbols and emblems. The difference between them is that one is an innocent pastime while the other has proven to be one of the most terrible scourges to afflict the human race.

But before tackling this subject outright, let us approach it through a few observations about the normal role of fantasy in human conduct.

The nature of fantasy ideology

It is a common human weakness to wish to make more of our contribution to the world than the world is prepared to acknowledge, and it is our fantasy world that allows us to fill this gap. But normally, for most of us at least, this fantasy world stays relatively hidden. Indeed, a common criterion of our mental health is the extent to which we are able to keep our fantasies firmly under our watchful control.

Yet clearly there are individuals for whom this control is, at best, intermittent, resulting in behavior that ranges from the merely obnoxious to the clinically psychotic. The man who insists on being taken more seriously than his advantages warrant falls into the former category; the maniac who murders an utter stranger because God — or his neighbor's dog — commanded him to do so belongs to the latter.

What is common in such interactions is that the fantasist inevitably treats other people merely as props — there is no interest in, or even awareness of, others as having wills or minds of their own. The man who bores us with stories designed to impress us with his importance, or his intellect, or his

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bank account, cares nothing for us as individuals — for he has already cast us in the role that he wishes us to play: We are there to be impressed by him. Indeed, it is an error even to suggest that he is trying to impress us, for this would assume that he is willing to learn enough about us to discover how best we might be impressed. But nothing of the kind occurs. And why should it? After all, the fantasist has already projected onto us the role that we are to play in his fantasy; no matter what we may be thinking of his recital, it never crosses his mind that we may be utterly failing to play the part expected of us — indeed, it is sometimes astonishing to see how much exertion is required of us in order to bring our profound lack of interest to the fantasist's attention.

The moment I stop thinking about you as a prop in my fantasy, you become problematic.

To an outside observer, the fantasist is clearly attempting to compensate by means of his fantasy for the shortcomings of his own present reality — and thus it is tempting to think of the fantasist as a kind of Don Quixote impotently tilting at windmills. But this is an illusion. Make no mistake about it: The fantasist often exercises great and terrible power precisely by virtue of his fantasy. The father who demands his son grow up and become a professional football player will clearly exercise much more control over his son's life than a father who is content to permit his child to pursue his own goals in life.

This power of the fantasist is entirely traceable to the fact that, for him, the other is always an object and never a subject. A subject, after all, has a will of his own, his own desires and his own agenda; he might rather play the flute instead of football. And anyone who is aware of this fact is automatically put at a disadvantage in comparison with the fantasist — the disadvantage of knowing that other people have minds of their own and are not merely props to be pushed around.

For the moment I stop thinking about you as a prop in my fantasy, you become problematic. If you aren't what I have cast you to be, then who are you, and what do you want? And, in order to answer these questions, I find that I must step out of the fantasy realm and enter the real world. If I am your father, I may still wish you to play football, but I can no longer blithely assume that this is obviously what you have always wanted; hence, I will need to start paying attention to you as a genuine other, and no longer merely as a ready-made prop. Your role will change from "born football player" to — x, the unknown. The very immensity of the required mental adjustment goes a long way toward explaining why it is so seldom made and why it is so often tragically impossible to wean a fantasist even from the most destructive fantasy.

Fortunately, the fantasizing individual is normally surrounded by other

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individuals who are not fantasizing or, at the very least, who are not fantasizing in the same way, and this fact puts some limit on how far most of us allow our fantasy world to intrude on the precinct of reality.

But what happens when it is not an individual who is caught up in his fantasy world, but an entire group — a sect, or a people, or even a nation? That such a thing can happen is obvious from a glance at history. The various chiliastic movements, such as those studied in Norman Cohn's *The Pursuit of the Millennium* (Harper & Row, 1961), are splendid examples of collective fantasy; and there is no doubt that for most of history such large-scale collective fantasies appear on the world stage under the guise of religion.

But this changed with the French Revolution. From this event onward, there would be eruptions of a new kind of collective fantasy, one in which political ideology replaced religious mythology as the source of fantasy's symbols and rituals. In this way it provided a new, and quite dangerous, outlet for the fantasy needs of large groups of men and women — a full-fledged fantasy ideology. For such a fantasy makes no sense outside of the ideological corpus in terms of which the fantasy has been constructed. It is from the ideology that the roles, the setting, the props are drawn, just as for the earlier pursuers of millennium, the relevant roles, setting, and props arose out of the biblical corpus of symbolism.

The French Revolution provided a new and dangerous fantasy ideology.

But the symbols by themselves do not create the fantasy. There must first be a preexisting *collective* need for this fantasy; this need comes from a conflict between a set of collective aspirations and desires, on one hand, and the stern dictates of brutal reality, on the other — a conflict in which a lack of realism is gradually transformed into a penchant for fantasy. History is replete with groups that seem to lack the capability of seeing themselves as others see them, differing in this respect much as individuals do.

A fantasy ideology is one that seizes the opportunity offered by such a lack of realism in a political group and makes the most of it. This it is able to do through symbols and rituals, all of which are designed to permit the members of the political group to indulge in a kind of fantasy role-playing. Classic examples of this are easy to find: the Jacobin fantasy of reviving the Roman Republic, Mussolini's fantasy of reviving the Roman Empire, Hitler's fantasy of reviving German paganism in the thousand-year Reich.

This theme of reviving ancient glory is an important key to understanding fantasy ideologies, for it suggests that fantasy ideologies tend to be the domain of those groups that history has passed by or rejected — groups that feel that they are under attack from forces which, while more powerful perhaps than they are, are nonetheless inferior in terms of true virtue. Such a

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fantasy ideology was current in the South before the Civil War and explained much of the conduct of the Confederacy. Instead of seeing themselves as an anachronism attempting to prolong the existence of a doomed institution, Southerners chose to see themselves as the bearer of *true* civilization. Imperial Germany had similar fantasies before and during the Great War. They are well expressed in Thomas Mann's *Notes of an Unpolitical Man*: Germans possess true inwardness and culture, unlike the French and English — let alone those barbarous Americans. Indeed, Hitler's even more extravagant fantasy ideology is incomprehensible unless one puts it in the context of this preexisting fantasy ideology.

In reviewing these fantasy ideologies, especially those associated with Nazism and Italian fascism, there is always the temptation for an outside observer to regard their promulgation as the cynical manipulation by a power-hungry leader of his gullible followers. This is a serious error, for the leader himself must be as much steeped in the fantasy as his followers: He can only make others believe because he believes so intensely himself.

The purpose of fantasy ideology is not to describe the world, but to change it.

But the concept of *belief*, as it is used in this context, must be carefully understood in order to avoid ambiguity. For us, belief is a purely passive response to evidence presented to us — I form my beliefs about the world for the purpose of understanding the world as it is. But this is radically different from what might be called transformative belief — the secret of fantasy ideology. For here the belief is not passive, but intensely active, and its purpose is not to describe the world, but to change it. It is, in a sense, a deliberate form of make-believe, but one in which the make-believe is not an end in itself, but rather the means of making the make-believe become real. In this sense it is akin to such innocently jejune phenomena as "The Power of Positive Thinking," or even the little engine that thought it could. To say that Mussolini, for example, *believed* that fascist Italy would revive the Roman Empire does not mean that he made a careful examination of the evidence and then arrived at this conclusion. Rather, what is meant by this is that Mussolini had *the will to believe* that fascist Italy would revive the Roman Empire.

The allusion to William James's famous essay "The Will to Believe" is not an accident, for James exercised a profound influence on the two thinkers essential to understanding both Italian fascism in particular and fantasy ideology in general — Vilfredo Pareto and Georges Sorel. All three men begin with the same assumption: If human beings are limited to acting only on those beliefs that can be logically and scientifically demonstrated, they could not survive, simply because this degree of certainty is restricted only to mathematics and the hard sciences — which, by themselves, are not remote-

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ly sufficient to guide us through the world as it exists. Hence, human beings must have a large set of beliefs that cannot be demonstrated logically and scientifically — beliefs that are therefore irrational as judged by the hard sciences.

Yet the fact that such beliefs cannot be justified by science does not mean that they may not be useful or beneficial to the individual or to the society that holds them. For James, this meant primarily the religious beliefs of individuals: Did a man's religious beliefs improve the quality of his personal life? For Pareto, however, the same argument was extended to all beliefs: religious, cultural, and political.

Both James and Pareto viewed non-rational belief from the perspective of an outside observer: They took up the beliefs that they found already circulating in the societies in which they lived and examined them in light of whether they were beneficial or detrimental to the individuals and the societies that entertained them. As a botanist examines the flora of a particular region — he is not interested in creating new flowers, but simply in cataloguing those that already exist — so, too, James and Pareto were exclusively interested in already existing beliefs, and certainly not in producing new ones.

Beliefs that cannot be justified by science may still be useful to the individual or society that holds them.

But this was not enough for Sorel. Combining Nietzsche with William James, Sorel discovered the secret of Nietzsche's will to power in James's will to believe. James, like Pareto, had shown that certain spontaneously occurring beliefs enabled those who held these beliefs to thrive and to prosper, both as individuals and societies. But if this were true of spontaneously occurring beliefs, could it not also be true of beliefs that were deliberately and consciously manufactured?

This was a radical innovation. For just as naturally existing beliefs could be judged properly only in terms of the benefits such beliefs brought about in the lives of those who believed in them, the same standard could now be applied to beliefs that were deliberately created in order to have a desired effect on those who came to believe in them. What would be important about such "artificially inseminated" beliefs — which Sorel calls myths — was the transformative effect such myths would have on those who placed their faith in them and the extent to which such ideological make-believe altered the character and conduct of those who held them — and certainly not whether they were true.

Sorel's candidate for such a myth — the general strike — never quite caught on. But his underlying insight was taken up by Mussolini and Italian fascism, and with vastly greater sensitivity to what is involved in creating such galvanizing and transformative myths in the minds of large numbers of

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men and women. After all, it is obvious that not just any belief will do and that, furthermore, each particular group of people will have a disposition, based on history and character, to entertain one set of beliefs more readily than another. Mussolini assembled his Sorelian myth out of elements clearly designed to catch the imagination of his time and place — a strange blend of Imperial Roman themes and futurist images.

Yet even the most sensitively crafted myth requires something more in order to take root in the imagination of large populations — and this was where Mussolini made his great innovation. For the Sorelian myth to achieve its effect it had to be presented as *theater*. It had to grab the spectators and make them feel a part of the spectacle. The Sorelian myth, in short, had to be embodied in a fantasy — a fantasy with which the "audience" could easily and instantly identify. The willing suspension of disbelief, which Coleridge had observed in the psychology of the normal theatergoer, would be enlisted in the service of the Sorelian myth; and in the process, it would permit the myth-induced fantasy to override the obvious objections based on mundane considerations of reality. Thus twentieth century Italians became convinced that they were the successors of the Roman Empire in the same way that a member of a theater audience is convinced that Hamlet is really talking to his deceased father's ghost.

In all fantasy ideologies, there is a point at which the make-believe becomes an end in itself.

Once again, it is a mistake to see in all of this merely a ploy — a cynical device to delude the masses. In all fantasy ideologies, there is a point at which the make-believe becomes an end in itself. This fact is nowhere more clearly exhibited than in the Italian conquest of Ethiopia.

Any attempt to see this adventure in Clausewitzian terms is doomed to fail: There was no political or economic advantage whatsoever to be gained from the invasion of Ethiopia. Indeed, the diplomatic disadvantages to Italy in consequence of this action were tremendous, and they were in no way to be compensated for by anything that Italy could hope to gain from possessing Ethiopia as a colony.

Why invade, then? The answer is quite simple. Ethiopia was a prop — a prop in the fantasy pageant of the new Italian Empire — that and nothing else. And the war waged in order to win Ethiopia as a colony was not a war in the Clausewitzian sense — that is to say, it was not an instrument of political policy designed to induce concessions from Ethiopia, or to get Ethiopia to alter its policies, or even to get Ethiopia to surrender. Ethiopia had to be conquered not because it was worth conquering, but *because the fascist fantasy ideology required Italy to conquer something* — and Ethiopia fit the bill. The conquest was not the means to an end, as in Clausewitzian war; it was an end in itself. Or, more correctly, its true purpose was to bolster the

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fascist collective fantasy that insisted on casting the Italians as a conquering race, the heirs of Imperial Rome.

America as a prop

TO BE A PROP in someone else's fantasy is not a pleasant experience, especially when this someone else is trying to kill you, but that was the position of Ethiopia in the fantasy ideology of Italian fascism. And it is the position Americans have been placed in by the quite different fantasy ideology of radical Islam.

The terror attack of 9-11 was not designed to make us alter our policy, but was crafted for its effect on the terrorists themselves: It was a spectacular piece of theater. The targets were chosen by al Qaeda not through military calculation — in contrast, for example, to the Japanese attack on Pearl Harbor — but entirely because they stood as symbols of American power universally recognized by the Arab street. They were gigantic props in a grandiose spectacle in which the collective fantasy of radical Islam was brought vividly to life: A mere handful of Muslims, men whose will was absolutely pure, as proven by their martyrdom, brought down the haughty towers erected by the Great Satan. What better proof could there possibly be that God was on the side of radical Islam and that the end of the reign of the Great Satan was at hand?

As the purpose of the Italian invasion of Ethiopia was to prove to the Italians themselves that they were conquerors, so the purpose of 9-11 was not to create terror in the minds of the American people but to prove to the Arabs that Islamic purity, as interpreted by radical Islam, could triumph. The terror, which to us seems the central fact, is in the eyes of al Qaeda a by-product. Likewise, what al Qaeda and its followers see as central to the holy pageant of 9-11 — namely, the heroic martyrdom of the 19 hijackers — is interpreted by us quite differently. For us the hijackings, like the Palestinian "suicide" bombings, are viewed merely as a modus operandi, a technique that is incidental to a larger strategic purpose, a makeshift device, a low-tech stopgap. In short, Clausewitzian war carried out by other means — in this case by suicide.

But in the fantasy ideology of radical Islam, suicide is not a means to an end but an end in itself. Seen through the distorting prism of radical Islam, the act of suicide is transformed into that of martyrdom — martyrdom in all its transcendent glory and accompanied by the panoply of magical powers that religious tradition has always assigned to martyrdom.

In short, it is a mistake to try to fit such behavior into the mold created by our own categories and expectations. Nowhere is this more tellingly illustrated than on the videotape of Osama bin Laden discussing the attack. The tape makes clear that the final collapse of the World Trade Center was not part of the original terrorist scheme, which apparently assumed that the twin

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towers would not lose their structural integrity. But this fact gave to the event — in terms of al Qaeda's fantasy ideology — an even greater poignancy: Precisely because it had not been part of the original calculation, it was therefore to be understood as a manifestation of divine intervention. The 19 hijackers did not bring down the towers — God did.

9-11 as symbolic drama

MOST OF OUR misunderstandings of al Qaeda's goals have come about for one fundamental reason: In the first weeks after 9-11, it was impossible to determine whether or not al Qaeda had embarked on a systematic and calculated Clausewitzian strategy of terror simply because at that date we did not know, and could not know, *what was coming next.*

In the days and weeks following 9-11 there was a universal sense that *it* would happen again at any moment — something shocking and terrifying, something that would again rivet us to our TV screen. And, indeed, the anthrax scare seemed, at first, to be designed precisely to fit this bill. It even had something that 9-11 lacked, namely, the ability to frighten people who sat quietly in their living rooms in little towns across America, to make ordinary people feel alarmed undertaking ordinary daily activities, such as opening the mail. But, leaving aside the question of whether al Qaeda was in fact directly or indirectly responsible for the anthrax letters, what was most striking about this episode was the fact that it showed dramatically that if al Qaeda had elected to launch a Clausewitzian war of terror against the United States, even acts of terror on a vastly smaller scale than 9-11 would still be assured of receiving enormous media coverage 24 hours a day, seven days a week. Indeed, even if another agent was behind the scare, it is still hard to understand how al Qaeda could fail to profit by the lesson the scare taught — that the American media, by nature, could be trusted to amplify even the least act of terrorism into a continuing saga of national nightmare.

But, leaving aside the anthrax episode, there was in fact no such act committed by al Qaeda in the months following 9-11. Nor does the possibility that one might still occur change the fact that during this critical initial period, one did not. This in itself is a remarkably telling fact.

Acts of terror, as noted earlier, can be used to pursue genuine Clausewitzian objectives in precisely the same way that normal military operations are used, as was demonstrated during the Algerian war of independence. But this requires that the acts of terror be deployed with the same kind of strategic logic that applies to normal military operations. If you attack your enemy with an act of terror — especially one on the scale of 9-11 — you must be prepared to follow up on it immediately. The analogy here to time-honored military strategy is obvious: If you have vanquished your enemy on the field of battle, you must vigorously pursue him while he

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is in retreat, i.e., while he is still in a state of panic and confusion. You must not let him regroup psychologically, but must continue to pummel him while he is still reeling from the first blow.

This al Qaeda failed to do. And the question is: Why?

Of course, given our limited knowledge, it is possible that al Qaeda did plan follow-up acts of terror but was simply unable to carry them out due to our heightened state of awareness as well as our military efforts to cripple al Qaeda in its base of operations in Afghanistan. But it is hard to believe that these factors could have precluded smaller-scale acts of terror — of the kind employed in Algeria and, more recently, by the Palestinian suicide bombers. What was to keep al Qaeda operatives from blowing themselves up at a Wal-Mart in Arkansas or a McDonald's in New Hampshire? Very little. And while it is true that such acts would lack the grandiose effect of 9-11, they would have brought terrorism home to the average American in a way that even 9-11 had not done and, as evidenced by the anthrax episode, would have multiplied enormously the already enormous impact on the American psyche of al Qaeda's original act of terror.

This was the reason why I, like millions of other Americans, spent the first few weeks after 9-11 either watching TV constantly or turning it on every 15 minutes: We were prepared to be devastated again. Our nerves were in a state of such anxious expectation that a carefully concerted and orchestrated campaign of smaller-scale, guerrilla-style terror, undertaken in out-of-the-way locales, could well have had a catastrophically destabilizing effect on the American economy and even on our political system.

But such Clausewitzian terror is quite remote from the symbolic drama enacted by al Qaeda on 9-11 — a great ritual demonstrating the power of Allah, a pageant designed to convey a message not to the American people, but to the Arab world. A campaign of smaller-scale acts of terror would have no *glamour* in it, and it was glamour — and grandiosity — that al Qaeda was seeking in its targets. The pure Islamic David required a Goliath. After all, if David had merely killed someone his own size, where would be the evidence of God's favor toward him?

Are we at war?

IF THIS INTERPRETATION is correct, then it is time that we reconsider some of our basic policy in the war on terror. First of all, it should be obvious that if our enemy is motivated purely by a fantasy ideology, it is absurd for us to look for the so-called "root" causes of terrorism in poverty, lack of education, a lack of democracy, etc. Such factors play absolutely no role in the creation of a fantasy ideology. On the contrary, fantasy ideologies have historically been the product of members of the intelligentsia, middle-class at the very least and vastly better educated than average. Furthermore, to hope that democratic reform would discourage radical

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Islam ignores the fact that previous fantasy ideologies have historically arisen in a democratic context; as the student of European fascism, Ernst Nolte, has observed, parliamentary democracy was an essential precondition for the rise of both Mussolini and Hitler.

Equally absurd, on this interpretation, is the notion that we must review our own policies toward the Arab world — or the state of Israel — in order to find ways to make our enemies hate us less. If the Ethiopians had tried to make themselves more likable to the Italians in the hope that this would make Mussolini rethink his plans of conquest, it would have had the same effect. There is no political policy we could take that would change the attitude of our enemies — short, perhaps, of a massive nationwide conversion to fundamentalist Islam.

There is no political policy we could take that would change the attitude of our enemies short of a massive conversion to Islam.

The second consequence to follow from the adoption of this model for understanding our enemy is that we need to reconsider the term "war" as it is currently deployed in this case. When the Japanese started the Pacific war by bombing Pearl Harbor on December 7, 1941, it was not because Pearl Harbor was a symbol of American power: It was because it was a large naval base and the Japanese had the quite rational strategic goal of crippling the American Pacific fleet in the first hours of the war. Furthermore, the act itself would not have taken place if the Japanese had believed themselves otherwise capable of securing their political goals — i.e., American acceptance of Japanese hegemony in Asia and the Pacific. And the war would have immediately ceased if the United States, in the days following the attack, had promptly asked for a negotiated settlement of the conflict on terms acceptable to the Japanese.

In the case of the war begun at Pearl Harbor, all the parties knew exactly what was at issue, and there was no need for media experts to argue over the "real" objective behind the attack. Everyone knew that the Japanese attack was the result of a strategic decision to go to war with America rather than accept the American ultimatum to evacuate Manchuria. In each of these cases, war was entered into by both sides despite the fact that a political solution was available to the various contending parties. The decision to go to war, therefore, was made in a purely Clausewitzian manner: The employment of military force was selected in preference to what all sides saw as an unacceptable political settlement.

This was not remotely the case in the aftermath of 9-11. The issue facing the U.S. was not whether to accept or to reject al Qaeda's political demands, which were nebulous in the extreme. Indeed, al Qaeda did not even claim to

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have made the attack in the first place! The U.S. and its allies were placed in the bizarre position of first having to prove who their enemy was — a difficulty that, by definition, does not occur in Clausewitzian war, where it is essential that the identity of the conflicting parties be known to each other, since otherwise the conflict would be pointless.

The fact that we are involved with an enemy who is not engaged in Clausewitzian warfare has serious repercussions on our policy. For we are fighting an enemy who has no strategic purpose in anything he does — whose actions have significance only in terms of his own fantasy ideology. It means, in a strange sense, that while we are at war with them, they are not at war with us — and, indeed, it would be an enormous improvement if they were. If they were at war with us, they would be compelled to start thinking realistically, in terms of objective factors such as overall strategic goals, war aims, and so forth. They would have to make a realistic, and not a fantasy-induced, assessment of the relative strength of us versus them. But because they are operating in terms of their fantasy ideology, such a realistic assessment is impossible for them. It matters not how much stronger or more powerful we are than they — what matters is that God will bring them victory.

It matters not how much stronger we are than they; what matters to them is that God will bring them victory.

This must be emphasized, for if the fantasy ideology of Italian fascism was a form of political make-believe, the fantasy ideology of radical Islam goes even one step further: It is, in a sense, more akin to a form of magical thinking. While the Sorelian myth does aim, finally, at transforming the real world, it is almost as if the "real" world no longer matters in terms of the fantasy ideology of radical Islam. Our "real" world, after all, is utterly secular, a concatenation of an endless series of cause and effect, with all events occurring on a single ontological plane. But the "real" world of radical Islam is different — its fantasy ideology reflects the same philosophical occasionalism that pervades so much of Islamic theology: That is to say, event B does not happen because it is caused by a previous event A. Instead, event A is simply the occasion for God to cause event B, so that the genuine cause of all events occurring on our ontological plane of existence is nothing else but God. But if this is so, then the "real" world that we take for granted simply vanishes, and all becomes determined by the will of God; and in this manner the line between realist and magical thinking dissolves. This is why the mere fact that there is no "realistic" hope of al Qaeda destroying the United States — and indeed the West as a whole — is not of the slightest consequence. After all, if God is willing, the United States and the West could collapse at any moment.

This element of magical thinking does not make al Qaeda any less dan-

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gerous, however. For it is likely that in al Qaeda's collective fantasy there may exist the notion of an ultimate terror act, a magic bullet capable of bringing down the United States at a single stroke — and, paradoxically, nothing comes closer to fulfilling this magical role than the detonation of a very unmagical nuclear device. That this would not destroy our society in one fell swoop is obvious to us; but it is not to our enemies, in whose eyes an act of this nature assumes a fantasy significance in addition to its sufficiently terrifying reality — the fantasy significance of providing al Qaeda with a vision of ultimate and decisive victory over the West.

Fighting an ideological epidemic

In the initial aftermath of 9-11, President Bush continually spoke of al Qaeda not as terrorists, but as "evildoers" — a term for which he was widely derided by those who found it offensively simple-minded and childish. Evildoers, after all, are characters out of fairy tales, not real life. Who really sets out for the deliberate purpose of doing evil, except the wicked dwarves and trolls of our childhood fantasies?

Bush's critics — who seem unfortunately to have won the semantic battle — were both right and wrong. They were right in observing the fairy-tale provenance of the phrase "evildoer," but they were wrong in denouncing Bush's use of it. For, whether by instinct or by cunning, Bush struck exactly the right note. The evildoer of the fairy tale, after all, is not motivated in his conduct by his wish to change the way other people act: His objectives are not to persuade or cajole or threaten others into doing as he wishes them to do. Instead, other people exist in his eyes only as an opportunity to do evil: He doesn't want to manipulate them for his selfish purpose; rather, his one and only purpose is to inflict evil on them — evil and nothing more.

Rather than interpreting 9-11 as if it were a Clausewitzian act of war, Bush instinctively saw it for what it was: the acting out of demented fantasy. When confronted with the enigma of 9-11 he was able to avoid the temptation of trying to interpret it in terms of our own familiar categories and traditions. Instead of looking for an utterly mythical root cause for 9-11, or seeing it as a purposeful political act on the Clausewitzian model, he grasped its essential nature in one powerful metaphor, offering, in a sense, a kind of counter-fantasy to the American people, one that allowed them to grasp the horror of 9-11 without being misled by false analogies and misplaced metaphors. How much wiser Montezuma would have been if he had said, "I do not know who these white-skinned strangers may be, or where they come from, or what they want. But that they are here to do evil I have no doubt. So let us act accordingly."

But, Bush's critics argued, the term "evildoers" *dehumanizes* our enemy. And again, the critics are both right and wrong. Yes, the term does dehumanize our enemy. But this is only because our enemy has already dehuman-

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ized himself. A characteristic of fantasy ideology is that those in the throes of it begin by dehumanizing their enemies by seeing in them only objects to act upon. It is impossible to treat others in this way without dehumanizing oneself in the process. The demands of the fantasy ideology are such that it transforms all parties into mere symbols. The victims of the fantasy ideology inevitably end by including both those who are enacting the fantasy and those upon whom the fantasy is enacted — both those who perished in the World Trade Center and those who caused them to perish; and, afterwards, both those who wept for the dead and those who rejoiced over the martyrs.

There is one decisive advantage to the "evildoer" metaphor, and it is this: Combat with evildoers is not Clausewitzian war. You do not make treaties with evildoers or try to adjust your conduct to make them like you. You do not try to see the world from the evildoers' point of view. You do not try to appease them, or persuade them, or reason with them. You try, on the contrary, to outwit them, to vanquish them, to kill them. You behave with them in the same manner that you would deal with a fatal epidemic — you try to wipe it out.

Perhaps it is time to retire the war metaphor and to deploy one that is more fitting: the struggle to eradicate disease.

So perhaps it is time to retire the war metaphor and to deploy one that is more fitting: the struggle to eradicate disease. The fantasy ideologies of the twentieth century, after all, spread like a virus in susceptible populations: Their propagation was not that suggested by John Stuart Mill's marketplace of ideas — fantasy ideologies were not debated and examined, weighed and measured, evaluated and compared. They grew and spread like a cancer in the body politic. For the people who accepted them did not accept them as tentative or provisional. They were unalterable and absolute. And finally, after driving out all other competing ideas and ideologies, they literally turned their host organism into the instrument of their own poisonous and deadly will.

The same thing is happening today — and that is our true enemy. The poison of the radical Islamic fantasy ideology is being spread all over the Muslim world through schools and through the media, through mosques and through the demagoguery of the Arab street. In fact, there is no better way to grasp the full horror of the poison than to listen as a Palestinian mother offers her four-year-old son up to be yet another victim of this ghastly fantasy.

Once we understand this, many of our current perplexities will find themselves resolved. Pseudo-issues such as debates over the legitimacy of "racial profiling" would disappear: Does anyone in his right mind object to screening someone entering his country for signs of plague? Or quarantining those who have contracted it? Or closely monitoring precisely those populations

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within his country that are most at risk?

Let there be no doubt about it. The fantasy ideologies of the twentieth century *were* plagues, killing millions and millions of innocent men, women, and children. The only difference was that the victims and targets of such fantasy ideologies so frequently refused to see them for what they were, interpreting them as something quite different — as normal politics, as reasonable aspirations, as merely variations on the well-known theme of realpolitik, behaving — tragically enough — no differently from Montezuma when he attempted to decipher the inexplicable enigma posed by the appearance of the Spanish conquistadors. Nor did the fact that his response was entirely human make his fate any less terrible.

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The Church-State Tangle

School choice and religious autonomy

By STEVEN MENASHI

GIVEN THE EXTRAORDINARY hullabaloo surrounding school choice's recent victory in the Supreme Court, it's surprising to realize how few choices are actually being made. Cleveland offers educational vouchers to just over 3,700 of the city's 75,000 students. In Milwaukee, 10,739 students — about 10 percent of the city's schoolchildren — attend a school of their choice with public support. And in Florida, which maintains the country's first and only statewide school choice program, only 50 students currently receive vouchers. All told, the nation's three publicly funded voucher programs offer educational options to about 0.0003 percent of American students.

Fears concerning the advent of an American theocracy, it seems, have been vastly overstated. "This decision represents a serious crack in the constitutional wall between church and state, and it's especially troubling when part of that wall comes crumbling down on Cleveland's public school children," laments Ralph Neas, president of People for the American Way. Neas

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is hysterical. Allowing parents using public aid to choose a religious education for their children does not constitute a state establishment of religion, and the Supreme Court has finally unmasked Neas's position as hostility to religion masquerading as a constitutional argument. Behind the justices' decision in *Zelman v. Simmons-Harris* is the court's growing respect for religious institutions and refusal to single them out for exclusion from the public square.

Yet voucher proponents appear equally blind to political reality. "The Court's decision," announced House Education and the Workforce Committee Chairman John Boehner (R-OH), "moves us decisively forward in the drive for equal educational opportunity." President Bush insisted, "the Court declared that our nation will not accept one education system for those who can afford to send their children to a school of their choice and for those who can't." In the wake of the court's ruling, says Joseph Overton of the pro-voucher Mackinac Center for Public Policy, "School choice is an inevitability."

The task remains to actually craft and implement school choice programs nationwide.

The court, however, declared no such thing. And school choice is far from inevitable. The task remains to actually craft and implement school choice programs in states and municipalities nationwide, and this will be no easy affair. "We are prepared to fight these efforts, state by state," Neas affirms. Having failed in the high court, anti-choice activists are refocusing their energies on the legislative process. "We will continue to fight for public schools and against vouchers — or related schemes to provide public funds to private and religious schools — at the ballot box, in state legislatures, and in state courts," threatens Bob Chase, president of the National Education Association. "If this decision brings new efforts to enact voucher legislation, we will fight these efforts," warns American Federation of Teachers President Sandra Feldman. "But we will also work with local, state and national policymakers to ensure that private schools that receive public funds are held accountable, just like public schools are." The Progressive Policy Institute is already promoting what it calls "accountable choice," which would impose statewide standards on private and parochial schools.

If voucher laws saddle private schools with the same regulatory regime that now hampers the public education system, school choice will prove an iatrogenic aggravation of the educational crisis. The prospect of increased regulation is especially threatening to religious schools — the principal focus of school-choice opponents — who fear that their religious missions could be undermined. Even the modest choice programs now extant impose restrictions on parochial schools that accept voucher children. Both the Cleveland and Milwaukee programs force participating schools to relinquish

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control of their admissions policies; admissions decisions must be made by lottery, ensuring nondiscriminatory access. Milwaukee's Parental Choice Program (MPCP) also includes an "opt-out" provision, which forbids schools from requiring participation in "any religious activity" that a student or parent finds objectionable.

These regulations, and concern about further state intervention in school administration, prompted the Milwaukee Archdiocese to urge its 37 parochial schools not to participate in the MPCP. The Wisconsin Evangelical Synod's 18 parish schools in Milwaukee are not, for the most part, accepting voucher children. In this way, Milwaukee is representative of a larger trend. A 1998 report by the Department of Education found that 46 percent of religious schools, in 22 urban areas nationwide, would not participate in a school choice program that required a lottery system in admissions. Fully 86 percent of religious schools would refuse to participate in a program that required them to offer exemptions from religious activities.

"Almost all our schools would not allow the exemption because every class is permeated by a Christian religious viewpoint," explained Christian Schools International. Such an exemption "strikes at the heart of what a Catholic school is all about," according to the U.S. Catholic Conference. For its part, the Lutheran Church-Missouri Synod cited the importance of "maintaining our mission and our spiritual nature which permeates our total school program." As a result, the Synod would restrict admission to "students from families who wanted Lutheran school education," not students randomly admitted by lottery.

School choice is doomed to fail if it does not include religious schools, which compose 79 percent of all private schools and teach 85 percent of private school students nationwide. At the same time, a school choice program that forces schools to compromise their religious missions and to accept government oversight in admissions and curriculum is ultimately self-defeating.

Fortunately, the Supreme Court's decision in *Zelman v. Simmons-Harris* removes any necessary trade-off between autonomy for religious schools and the constitutionality of the choice program. State regulation of sectarian schools is not necessary, it turns out. In fact — and this will likely be the focus of future school-choice litigation — such regulation may be unconstitutional.

"Pervasively sectarian"

THE SUPREME COURT has previously made the case for regulation. In *Meek v. Pittenger* (1975), the court held that a state could not provide aid to religious schools "which from its nature can be diverted to religious purposes." Thus, when the court allowed state aid to sectarian colleges the following year, in *Roemer v. Board of Public Works of*

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Maryland, it did so only because the institutions were "not so permeated by religion that the secular side cannot be separated from the sectarian" and the "aid in fact was extended only to 'the secular side.'" By this logic, the opt-out provision, as well as the open admissions policy, ensures that participating schools will perform "essentially secular educational functions," as did the institutions at issue in *Roemer*.

Opponents of Cleveland's voucher program emphasized that participating schools featured curricula in which the sectarian and secular were interwoven, making the case that public funds may not accrue to such pervasively sectarian institutions — where the aid would unavoidably support religious activities. But the Supreme Court has discarded the notion that public aid can never flow to pervasively sectarian institutions.

The Supreme Court has discarded the notion that public aid can never flow to pervasively sectarian institutions.

When the court decided *Meek*, Chief Justice Burger wrote, "One can only hope that, at some future date, the Court will come to a more enlightened and tolerant view of the First Amendment's guarantee of free exercise of religion, thus eliminating the denial of equal protection to children in church-sponsored schools, and take a more realistic view that carefully limited aid to children is not a step toward establishing a state religion." The court has finally taken up Burger's invitation.

In *Mitchell v. Helms* (2000) the court formally repudiated *Meek* — as well as a similar case, *Wolman v. Walter* (1977) — holding instead that a school's religious character is not a concern so long as the government does not act improperly. If the government offers the same assistance to all schools irrespective of their sectarian character, the "pervasively sectarian recipient has not received any special favor," Justice Thomas wrote for the court, "and it is most bizarre that the Court would, as the dissent seemingly does, reserve special hostility for those who take their religion seriously, who think that their religion should affect the whole of their lives, or who make the mistake of being effective in transmitting their views to their children." For the current court, pervasively sectarian groups no longer represent a unique threat that justifies unequal treatment by the state.

Significantly, in the Cleveland case, there was no dispute that schools receiving vouchers were pervasively sectarian or that public monies would ultimately support religious instruction. Rather, the important question was whether the program had the forbidden effect of advancing or inhibiting religion — namely, that the aid must not result in governmental indoctrination, define its recipients by reference to religion, or create an excessive entanglement between church and state. Since vouchers are provided on the basis of neutral, secular criteria, there's no financial incentive to undertake religious instruction, and so the aid cannot constitute a government endorse-

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ment of religion. And, because citizens direct the funds to religious schools wholly as a result of their own independent and private choices, aid to religious schools cannot be attributed to government decision-making. The state provides aid only to parents, who then choose where to direct the money. There's no need to restrict parents' options — or, indeed, to discriminate against those deeply religious parents who send their children to pervasively sectarian schools.

What the decision means, of course, is that the legislative finagling that forced religious schools in Milwaukee to relinquish control of their admissions and curriculum was unnecessary. If the distribution of aid itself is neutral, the Establishment Clause does not require that the state monitor its eventual use. It's no different from issuing a paycheck to a government employee, who may then divert the funds to a religious cause.

Entanglement

THE COURT DID not consider whether the program created an excessive entanglement, since neither party in the case contended that such entanglement of government with religion occurred. One might consider, however, that enforcement of Milwaukee's opt-out provision would generate precisely the sort of entanglement that offends the court's Establishment Clause holdings. Excessive entanglement occurs when a statute necessitates "pervasive monitoring by public authorities" in a religious institution. As the court has acknowledged, "parochial schools involve substantial religious activity and purpose," and so the "substantial religious character of these church-related schools gives rise to entangling church-state relationships of the kind the Religion Clauses sought to avoid." The court has maintained that injecting a secular regulatory authority into the operations of a religious school would "necessarily involve inquiry into the good faith of the position asserted by the clergy-administrators and its relationship to the school's religious mission . . . which may impinge on rights guaranteed by the Religion Clauses."

For many religious schools, there is no distinction between religious and educational activities; their entire pedagogy is an expression of religious faith. The opt-out provision, however, imposes just such a distinction. Court action under the opt-out provision hinges on the distinction between secular education and sectarian activity, and thus necessitates a judicial inquiry into the religious character of school activities that would impact the religious content of school instruction. "It is a significant burden on a religious organization to require it, on pain of substantial liability, to predict which of its activities a secular court will consider religious," the court acknowledged in 1989. "Fear of potential liability might affect the way an organization carried out what it understood to be its religious mission."

Martin Hoyt, legislative director of the American Association of Christian

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Schools, said in 1999 that his organization worries that choice programs will lead to the "religious sterilization of academic courses." This potential chilling effect on the free exercise of religion is precisely the harm that the excessive entanglement criterion seeks to avoid. A school choice program that secularizes instruction in religious schools has the effect of *inhibiting* religion and so would do violence to the First Amendment.

The pervasively sectarian character of parochial schools has long obstructed school choice reforms; it meant that state aid would unavoidably support religion. But the pervasive religious nature of the schools also means that regulators would unavoidably entangle themselves with religious questions. The would-be regulators, moreover, even lack a compelling interest in establishing secular oversight of the schools. As the *Zelman* decision explained, the schools' participation in a voucher program does not threaten the Establishment Clause. A voucher program doesn't change the relationship between the state and the schools, since aid goes only to parents. If the state were involved in a direct relationship with pervasively sectarian schools, the program wouldn't be constitutional in the first place. Thus, without an Establishment Clause rationale, rules like the opt-out provision represent no more than a superfluous attack on the integrity of religious schools.

The American Federation of Teachers may want public monitoring of parochial schools under voucher laws, but such government oversight would likely be unconstitutional. In 1988, the Supreme Court addressed a First Amendment challenge to the Adolescent Family Life Act, which authorized federal grants to public or nonprofit organizations for services and research in the area of premarital adolescent sexual relations and pregnancy. The court held that while "The monitoring of AFLA grants is necessary to ensure that public money is to be spent in the way that Congress intended and in a way that comports with the Establishment Clause, . . . the Act does not create an excessive entanglement of church and state" only because "there is no reason to assume that the religious organizations which may receive AFLA grants are 'pervasively sectarian' in the same sense as *parochial schools* have been held to be in cases finding excessive 'entanglement'" (emphasis added).

More to the point, in *Aguilar v. Felton* (1985), the Supreme Court held that New York City's Title I program occasioned an excessive entanglement with religion because public employees who teach on religious school premises were to be closely monitored to ensure that they would not inculcate religion.[1] Said the court: "pervasive monitoring by public authorities in

[1] *Agostini v. Felton* (1997), which overturned *Aguilar*, did not attack this reasoning. Rather, the Court held that "Because the Court in *Zobrest* [*v. Catalina Foothills School District* (1993)] abandoned the presumption that public employees will inculcate religion simply because they happen to be in a sectarian environment, there is no longer any need to assume that *pervasive* monitoring of Title I teachers is required."

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the sectarian schools infringes precisely those Establishment Clause values at the root of the prohibition of excessive entanglement."

In that case and others, the court has employed the entanglement criterion against the interests of religious institutions, as a block against any public involvement with religion. Most notably, in *Lemon v. Kurtzman* (1971), the court struck down salary supplements to parochial school teachers and reimbursement of costs to teach secular subjects in private schools. The programs, explained the court, would create an excessive entanglement: The state would need to monitor course content and supervise school expenditures to determine which were secular and which were not. Indeed, until recently, the distinction of an organization as "pervasively sectarian" meant that government could not be involved with it at all. State aid would unavoidably support religious activity, creating an establishment. The state would unavoidably become involved in religious questions, creating an entanglement. That way, the court could push religion out of the public square while appearing to chart a course between advancing and inhibiting religion. The court's actual motivation was, too often, "hostility to all things religious in public life," as Chief Justice Rehnquist has put it. And one can still see antireligious bias behind the *Zelman* dissents. Justice Breyer warned that the Cleveland program, since it does not exclude religious education, would promote "religious strife" and "great turmoil." Justice Stevens feared that the United States would come to resemble "the Balkans, Northern Ireland, and the Middle East." Stevens does not even believe religious schools provide education at all; he calls it "indoctrination." But the court's majority is trying to move past the anti-theological ire toward a more neutral and tolerant view of religion.

The court's actual motivation was, too often, "hostility to all things religious in public life."

The court has answered the establishment question with the principle of private choice. Yet all the precedent about excessive entanglement remains. All of which implies that states may support parents who choose a religious education for their children but may not follow the children into religious schools to monitor and regulate. For this reason, whereas school choice opponents once championed the principle of excessive entanglement as a boon to church-state separation, some now fear it. Barbara Miner, writing in the *Nation*, worried that "demands that voucher schools play by the same rules as public schools will violate prohibitions against government 'entanglement.' If so, what will win out: demands for public accountability or religious freedom for voucher schools?" The entanglement test now appears to be a significant protection for religious freedom against demands for official restrictions and regulation — which is, of course, entirely appropriate.

The First Amendment does not require discrimination against pervasively

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religious institutions by the government. After all, when a municipal fire department protects a church from burning down, the government also unavoidably aids religion. What's more, it does so with taxpayer dollars. One would be hard pressed, though, to argue that an establishment of religion had thereby occurred. So the First Amendment doesn't prohibit public funds from ever supporting religious activities. Yet it does forbid government from inhibiting religious practice. The amendment, after all, was intended to safeguard religious liberty — not to stamp out religion altogether.

Religious liberty

RELIGIOUS LIBERTY MEANS more than the ability to comply with personal religious obligations. Religious freedom would be a shallow right indeed if individuals were prevented from joining with others to practice their religion and pursue religious objectives, such as education and evangelistic outreach. If the constitutional guarantee of free exercise of religion is to have any meaning, therefore, religious organizations must be able to govern themselves and to decide questions of doctrine free of government intervention or oversight. Because state interference in the internal organization of religious communities so threatens religious liberty, the First Amendment embraces "a spirit of freedom for religious organizations, an independence from secular control or manipulation, in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine," the court has explained. "Legislation that regulates church administration, the operation of the churches, the appointment of clergy . . . prohibits the free exercise of religion."

Justice Louis Brandeis, writing for the court in 1929, explained, "In the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular courts as conclusive." In a 1976 case, the court even cast doubt on whether "arbitrariness" is a requisite justification for state interference with religious bodies. "It is the essence of religious faith that ecclesiastical decisions are reached and are to be accepted as matters of faith whether or not rational or measurable by objective criteria," wrote Justice Brennan for the court. "Constitutional concerns of due process, involving secular notions of 'fundamental fairness' or impermissible objectives, are therefore hardly relevant to such matters of ecclesiastical cognizance." This notion — that the Constitution protects religious institutions from government oversight and regulation that would normally be applicable — is one of longstanding in the court's jurisprudence. Well over a century ago, the court explained in *Watson v. Jones* (1872):

> All who unite themselves to [a religious] body do so with an implied

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> consent to this government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them reversed. It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for.

On these grounds, the court has defended exemptions for religious organizations from property taxes and from Title VII's prohibition on religious discrimination. The protection from regulation applies especially to parochial schools. In *NLRB v. Catholic Bishop* (1979), for example, the Supreme Court took up a National Labor Relations Board determination that church-operated schools violated the National Labor Relations Act by refusing to recognize or bargain with unions representing lay faculty members at the schools. The schools, insisted the board, had involved themselves in the secular world when they decided to hire lay teachers, and were therefore subject to the Board's jurisdiction. But the court replied that the National Labor Relations Act could not apply to the sectarian schools, even their lay faculty: "We see no escape from conflicts flowing from the Board's exercise of jurisdiction over teachers in church-operated schools and the consequent serious First Amendment questions that would follow."

Religious organizations must be able to govern themselves free of government intervention.

In 1995, the Equal Employment Opportunity Commission brought a Title VII sex discrimination suit against Catholic University. The appeals court concluded that the EEOC's investigation of employment practices at the university constituted an impermissible entanglement with judgments that are appropriately at the discretion of the religious institution. Further, the court explained, the Free Exercise Clause mandates an exemption from the nondiscrimination law for religious organizations. The "state's interest in eliminating employment discrimination is out-weighed by a church's constitutional right of autonomy in its own domain," said the court. The exemption to Title VII covers all employees of a religious institution, whether ordained or not, whose primary functions serve its spiritual and pastoral mission. Such duties include "teaching, spreading the faith, church governance," and "supervision or participation in religious ritual and worship."

Faculty at parochial schools, which are pervasively sectarian institutions, surely meet this test. Indeed, the Fourth Circuit Court of Appeals, in *Clapper v. Chesapeake Conference of Seventh-Day Adventists* (1999), made just such a finding. The court dismissed the age and race discrimination claim of

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an elementary school teacher at a religious school. Because the purpose of the school's elementary program was no less than "the redemption of each student's soul" through religious education, the court concluded that the teacher's primary duties consist of teaching and spreading the faith — and that, therefore, the state could not regulate teacher employment.[2]

Danger exists, as the Fourth Circuit Court has also written, where religious associations, "wary of EEOC or judicial review of their decisions, might make them with an eye to avoiding litigation or bureaucratic entanglement rather than upon the basis of their own personal and doctrinal assessments." Therefore, the Free Exercise and Establishment Clauses both inform a constitutional right of religious autonomy.[3] The Establishment Clause secures the mutual independence of church and state whereas the Free Exercise Clause guarantees the right to associate, to further one's religious aims, in self-governing religious communities. It's for this reason that states largely exempt sectarian schools from normally applicable accreditation procedures and regulations. A recent U.S. Education Department review of private school regulation in the states reports, "Since 80 percent of America's private schools are religious institutions, any regulation of these schools must conform to the First Amendment's guarantee of the free exercise of religion. The principle is generally reflected in most, if not all, of the state codes."

It's also important to emphasize the point that the EEOC investigation of Catholic University itself constituted an impermissible entanglement. States may place restrictions on the use of school vouchers by parents — in the same way that recipients of food stamps, for example, can't use them to buy liquor. But meeting and enforcing those provisions cannot require state supervision or management within religious institutions or a judicial inquiry into matters of faith and doctrine. The Wisconsin Supreme Court, when it upheld Milwaukee's choice program in 1998, found the program constitutional because the state "need not, and in fact is not given the authority to impose a comprehensive, discriminating, and continuing state surveillance

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[2]It is important to note, moreover, that the First Amendment protects the decisions of religious institutions within their own sphere but still precludes the courts from evaluating the religious motivations behind them. Whether the dismissal of a teacher is consistent with the school's theology, for example, is not a matter for the courts to decide. "In these sensitive areas," as the Second Circuit Court of Appeals has written, "the state may no more require a minimum basis in doctrinal reasoning than it may supervise doctrinal intent."

[3]On the Free Exercise Clause, see Douglas Laycock, "Towards a General Theory of the Religion Clauses: The Case of Church Labor Relations and the Right to Church Autonomy," 81 *Columbia Law Review* 1373 (1981). On the Establishment Clause, see Carl Esbeck, "Establishment Clause Limits on Governmental Interference with Religious Organizations," 41 *Washington and Lee Law Review* 347 (1984).

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over the participating sectarian private schools."

Milwaukee's chapter of the NAACP, along with People for the American Way, filed a complaint with the Wisconsin Department of Public Instruction in 1999, charging that several religious schools in Milwaukee had not adopted a random admissions process or were not allowing students to opt out of religious activities. The schools protested that the department lacked the authority to investigate religious schools, but the department decided to launch an investigation nonetheless. Three years removed from that announcement, the department remains in negotiation with two Milwaukee religious schools concerning their admissions and teaching policies. If such a dispute ever reaches the courts, it will be interesting to see whether they permit such an investigation or adopt the authority to distinguish "religious" from "secular" activities in pervasively sectarian institutions.

But the case is clearer with the more pervasive regulations now envisioned by voucher opponents — including state oversight of curriculum, personnel, and school administration. That sort of regulation would create an excessive entanglement, leading courts to strike down the voucher program or — since the conditions aren't necessary to the program — the regulations. The Free Exercise Clause also provides greater protection for religious institutions and activities with a religious motivation. In Michigan, for example, the courts upheld the right of parents to home school for religious reasons — but not for secular reasons.

In recent history, courts have worked to push religion out of public life. Sectarian institutions, in fact, were admitted to the public square only insofar as they secularized their activities and kept their religion behind closed doors. So it's understandable that many now fear that publicly funded school choice will undermine schools' religious missions. But such an attitude fails to appreciate the emerging change in the court's understanding of the First Amendment, beyond the traditional hostility. Justice Brennan wrote a quarter-century ago: "The Establishment Clause does not license government to treat religion and those who teach or practice it, simply by virtue of their status as such, as subversive of American ideals and therefore subject to unique disabilities." In fact, religious institutions command our respect.

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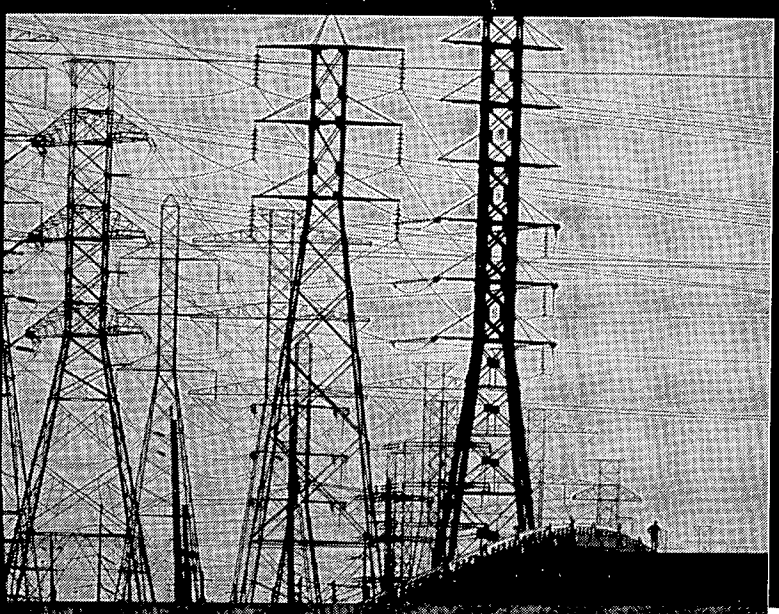

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Faces of American Islam

By DANIEL PIPES AND KHALID DURÁN

OUR RESPECTIVE BOOKSHELVES groan under the weight of books bearing titles like *Islam and the West*, *The Future of Islam and the West*, and *The Islamic World and the West*. What is striking about these books — all quite recently written and published — is the anachronism of their geographic premise. With millions of Muslims now living in the West, especially in North America and Western Europe, the old dichotomy of Islam and the West exists no more. This presence of Muslims in the West has profound importance for both civilizations involved, the Western and the Islamic, and has a potential for both good and ill. Indeed, looking ahead, it is hard to see any other cultural interaction quite so fraught with implications as this one.

As has become evident of late, a vast number of Muslims, those living in Europe and the Americas no less than those elsewhere, harbor an intense hostility to the West. For most Muslims, this mix of envy and resentment remains a latent sentiment, but for some it acquires operational significance. Merely to conjure the names of Ayatollah Khomeini, Muammar Qaddafi, Saddam Hussein, and Osama bin Laden is to convey the power of this

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hatred, its diverse ideological roots, and its power to threaten. Their counterparts also live in the West, where they have a unique inclination not just to disrupt through violence but also to challenge the existing order. Will this challenge be contained or will it bring yet greater problems, including violence?

This essay focuses on just one portion of Western Islam, namely those Muslims who live in the United States and who are either immigrants or their descendants (hereafter referred to as "Muslim immigrants"). It does not deal with the other major component, the converts, nor does it deal with other Western countries.

Demography and geography

The first challenge in studying Muslim immigrants in the United States is counting them. By law, the official census cannot count adherents of a religion, and Muslims are too few to show up reliably in most survey research. In addition, there are questions about whom to count (do Ahmadis, legally not considered Muslims in Pakistan, count as Muslims in the United States?). Taking these and other complications into account, a statistical picture is emerging that points to a total Muslim population in the United States of about 3 million, of which immigrants make up two-thirds to three-fourths. Accepting that this number is necessarily rough, it does point to somewhat over 2 million Muslim immigrants, or slightly less than 1 percent of the U.S. national population.

Immigrant Muslims are ethnically extremely varied, coming from virtually every country where Muslims live, or well over a hundred countries in all. Symbolic of this diversity, Los Angeles alone boasts such exotic food fare as the Chinese Islamic Restaurant and the Thai Islamic Restaurant. The largest number of immigrants derive from three main sources: South Asia, Iran, and the Arabic-speaking countries. The single largest group of Muslim immigrants are those from South Asia (meaning Bangladesh, India, and Pakistan), followed by perhaps 500,000 Iranians and 400,000 from the Arab countries. Shi'is, who make up about 10 percent of the worldwide Muslim population, probably comprise about the same percentage of the U.S. Muslim population.

Like most immigrant communities, Muslims are considerably younger than the national average and heavily weighted toward males. Indeed, Islam is the most male religion in the United States, with roughly two men for every woman. There are many reasons for this imbalance, some of them concerning the mostly African-American convert population, others having to do with the general pattern of immigration in which men move to an area before women follow them. Other factors pertain to the specifics of Muslim immigration; for example, several thousand former soldiers of the Iraqi army who defected during and after the Gulf War were settled in the United

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States. Birth rates for immigrant Muslims start very high, then drop over time as these populations westernize.

Muslims tend to live in the major metropolitan areas where immigrants historically have congregated, including the country's largest cities (New York, Los Angeles, Chicago). More broadly, the Islamic map of the United States features four major regions, all urban: the New York to Washington area; California, especially Los Angeles and San Francisco; a triangle stretching from Chicago to Cleveland to Detroit; and Texas, especially the Houston and Dallas-Fort Worth areas. The southeast and northwest portions of the country have the fewest Muslim immigrants, with the exceptions of southern Florida and the Seattle area.

Many of these centers have a specific ethnic quality. California has, especially, many Iranians; Los Angeles may have the second-largest Iranian population of any city after Tehran. Texas has a majority of South Asians. The Midwestern triangle has mostly Arabs and American blacks, though Chicago has a near-plurality of East Europeans (Albanians, Bosnians, Turks). Detroit has the country's largest concentration of Arabs (mostly Lebanese, Iraqis, Palestinians, and Yemenis), a legacy of the days when Henry Ford employed Lebanese laborers.

Unlike the Muslim immigrants in Europe who live in ghetto-like areas, Muslim immigrants to the United States are highly dispersed. The only town in the country with a substantial concentration of Muslim immigrants is Dearborn, Michigan, where they make up perhaps 30 percent of the population; one part of Dearborn, called Southend, is about 97 percent Muslim. In contrast, efforts at Muslim-only towns (such as Baladullah, a Muslim enclave in the Sierra Nevada foothills of California) consist mainly of African-American converts to Islam.

Immigration History

THE EARLIEST MUSLIM immigrants came as slaves from Africa beginning perhaps as early as 1501. Their absolute numbers are open to substantial disagreement, with one foremost scholar, Allan D. Austin, putting their number at 40,000 (for the United States alone) and another, Sylviane Diouf, estimating between 2.25 million and 3 million (for the Americas as a whole). The slave-owners sometimes appreciated and rewarded their literate Muslim slaves, but they despised the religion of Islam and did what they could to prevent it from passing from one generation to the next. As a result, except in vestigial forms (one group of Trinidadian Baptists engages in practices to the present that recall Islamic ritual), the religion disappeared by the 1860s, or two generations after the import of slaves ceased.

The first free Muslim immigrants may date back to the later sixteenth century, when captured Muslim soldiers were deposited on the coast of

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North Carolina and elsewhere in the South; if so, then the Melungeons, swarthy whites living on the Cumberland Plateau in remote parts of the southeastern United States, from Virginia to Kentucky, may be their descendants.

The modern history of Muslim immigration to the United States began a decade or so after the Civil War, consisting mostly of Levantines but also a few Muslims from Yemen, South Asia, Indonesia, and elsewhere. For example, some 700 Punjabi farmers immigrated from India to California. This second wave of immigration lasted, with numerical ups and downs, until 1924, when the door to non-European immigration clanged nearly shut. Over the next 40 years, the few Muslim immigrants tended to be Soviet-bloc refugees who arrived in the aftermath of World War II. By the time of the landmark 1965 change in the immigration law, about 100,000-150,000 Muslims lived in the United States.

That 1965 legislation initiated the third wave of immigration, which continues to the present. Opening the doors to immigrants from the entire world, it put a premium more on skills and family ties than on provenance. Indeed, with time, making the U.S. population more diverse became a goal in itself, as symbolized by the lotteries, starting in 1989, which gave a chance to anyone around the world to come to the United States with his immediate family. Accordingly, the numbers of Muslim immigrants began to increase rapidly starting in the late 1960s. A recent analysis completed by the Center for Immigration Studies shows that, among countries with large Muslim majorities, Pakistan has been by far the leading source of immigrants over the last decade, followed by Bangladesh, Iran, Iraq, Turkey, and Egypt.

Reasons for immigrating

Muslims since 1965 have arrived in the United States for three main reasons. The first is refuge. Tragic events in predominantly Muslim countries often lead directly to the emergence of a Muslim ethnic community in the United States; Afghanistan and Iraq offer particularly stark examples. The Muslim countries being disproportionately dominated by dictators means that tyranny, persecution, poverty, violent regime changes, civil strife, and wars have driven some of the most talented and wealthy from Muslim countries in the Middle East, South Asia, and beyond. Some examples by category:

- *Ethnic persecution.* Expulsion of Asians from Uganda, followed by smaller numbers from Tanzania and Kenya, led to some 6,000 Muslims in North America. Saddam Hussein's extermination campaign against the Kurds led to mass exoduses in 1989, 1991, and 1996.
- *Religious persecution.* Hindu-Muslim clashes in India cause a steady

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stream of Muslims to seek safety in America, even as members of the country's elite leave due to job discrimination. There was even one case of a French Muslim seeking asylum in the United States.

- *Islamism.* Members of the Ahmadi sect fled Pakistan when their faith was deemed not Islamic in 1974, as did many other Muslims running from the Islamist dictatorship of Gen. Zia ul-Haq. The Iranian revolution of 1979 targeted the sort of person most likely to seek refuge in the United States. Persecuted by Islamists, members of anti-Islamist movements such as the Republican Brothers of the Sudan and the Association of Islamic Charitable Projects of Lebanon immigrated to the United States.

- *Anti-Islamism.* Conversely, Islamists flee repression from countries such as Algeria, Egypt, Lebanon, and India by moving to the land of the infidel, where they (ironically) find the freedom to express their views.

- *Civil wars.* Waves of immigrants arrived as a consequence of the endless civil war in Sudan, the 1971 Pakistani civil war, the 1975-90 Lebanese civil war, the 1990s anarchy in Somalia and the former Yugoslavia.

- *International wars.* The Israeli victories in 1948-49 and 1967 caused waves of emigration. The Soviet invasion of Afghanistan in December 1979 and the decade of warfare that followed prompted the educated to flee. The Iraqi invasion of Kuwait in 1990 brought not only Kuwaiti citizens and residents, but also 10,000 Iraqis, one-third of them soldiers (and their family members) who surrendered to the Allied troops and could not be sent back without imperiling their lives.

With the Muslim world dominated by dictators, it seems unlikely that this flow of refugees will end or even lessen any time soon.

The second major reason for immigration is education. By the 1990s, U.S. colleges and universities attracted over a half million foreign students, many of whom chose to remain in the United States, where facilities for their profession are superior, political freedoms wider, and economic rewards greater. Among medical students, more than 75 percent — and perhaps as many as 90 percent — end up staying in the United States. Female students are also particularly inclined to stay; they appreciate the independence, self-sufficiency, and opportunities for assertiveness the United States offers them and know that to return means having to conform to restrictive ways, demure behavior, and family dictates.

A third reason for immigration is Islamist ambition. Although the numbers in this category are smaller than those for refugees or students (and, indeed, some Islamists also fit in those two capacities), Islamists have particular importance, for they harbor religious and political ambitions that are in a potential collision course with the majority population.

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Islamists arrive in the United States despising the country and all it represents, intending to make converts, exploit the freedoms and rights granted them, and build a movement that will effect basic changes in the country's way of life and its government. The superpower status of the United States makes it especially attractive to those who wish to change the world order; what better place to start? Islamists do not accept the United States as it is but want to change it into a majority Muslim country where the Koran replaces the Constitution. "Our plan is, we are going to conquer America," is how a missionary put it already in the 1920s.[1] His latter-day successors are no less ambitious. They have two alternate strategies, nonviolent (i.e., conversion of the Christian majority) and violent (i.e., jihad), to accomplish this.

Islamists arrive in the United States despising the country and all it represents.

Islamists also find several other advantages to U.S. residency: The protection of freedom of expression permits them to write or broadcast whatever they wish. Good communications and transportation allow the Islamists to stay in constant touch with their movements. There is no country as open to outside actors or influences as the United States. And American affluence offers possibilities for fundraising.

But it's not a complete paradise, especially if the Islamists engage in illegal activities. Omar Abdel Rahman, the blind sheikh spending the rest of his life in a U.S. jail for his part in attempting to blow up New York City landmarks, finds things less than ideal in the United States: "I came here to smell freedom; I found it to be suffocating here." Since September 2001, groups (such as the Global Relief Foundation) and individuals (such as Enaan Arnaout, head of the Benevolence International Foundation) who hitherto found the United States a playground for dubious behavior suddenly have found themselves caught up with the law.

Beyond these categories, Muslim countries have some of the highest birthrates in the world, even as Americans barely have enough children to replace themselves. Demographically, the two groups complement each other so well that the continued immigration of Muslims seems highly likely.

Once in the United States, temporary sojourns often turn into permanent residence. Workers get accustomed to higher incomes, students stay on beyond their schooling, intellectuals appreciate the freedom of expression. In general, families stay more than singles, women more than men, educated and skilled individuals more than those who are not, rich ones more than poor ones, and economic refugees more than political ones. There is a grow-

[1]Quoted in Andrew T. Hoffert, "The Moslem Movement in America," *The Moslem World*, 20 (1930), 309.

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ing sense among immigrant Muslims that the home countries are fated to remain politically unfree and economically backward; not surprisingly, they see the United States as a permanent abode.

Religious practice, education

DO IMMIGRANTS BECOME more religious or less so on arrival in the United States? Both. Those who embrace the freedoms America offers and become religiously less observant (or even convert out of Islam) are acting out what they could not fully express in the home countries. In contrast, about one-third of Muslim immigrants say they have become more religious in the United States. Their increased piety has two main sources, cultural and moral. On the cultural level, immigrants respond to the strangeness of a new land by emphasizing familiar rituals and spending time at the mosque. On the moral level, they respond to the radical openness of American life by emphasizing their hitherto neglected faith. (As one man told the *New York Times*, "When I came to America, I really became a Muslim. Back home, I took it for granted.")

Survey research indicates that the numbers of those who live in some fashion by the laws of Islam are about equal to the numbers of those who do not.[2] Such numbers may be deceptive, however, for Muslims tend to overstate their piety. Perhaps half of Muslims here restrict themselves to halal meat. A third of the women obey the injunction against wearing make-up in public, and roughly the same number avoid shaking hands with a member of the opposite sex who is not related to them. A smaller number, 20 percent to 25 percent of schoolgirls, cover their hair. Prayers are less common; no more than 10 percent of those with access to mosques attend Friday prayer services. The consumption of alcohol is widespread. The prohibition of extramarital sex is commonly violated, especially by young men who tend to see non-Muslim women as fair game.

Muslim immigrants of recent years boast exceptionally high levels of education. A 1999 survey found that 52 percent of them have a graduate degree.[3] South Asians appear to be the best educated of all. (Exceptions to this pattern do exist, of course: Yemeni farmers, Iraqi soldiers, and most illegal immigrants are far less educated.) This impressive fact results in part

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[2]Yvonne Yazbeck Haddad and Adair T. Lummis, *Islamic Values in the United States* (Oxford University Press, 1987), 25 shows 46 percent of a sample of 347. That number has probably gone up in the intervening years.

[3]Council on American-Islamic Relations, "Report Outlines Political Attitudes of American Muslims: 96 Percent Believe Muslims Should Get Involved in Local and National Politics" (December 22, 1999).

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from the Muslim community in North America drawing disproportionately on the elites. Very often it is the best educated who come to settle in the United States. Some of the most talented members of society are establishing new lives in the West.

Immigrant Muslims tend to concentrate in the professional and entrepreneurial vocations, and especially in engineering and medicine, which jointly employ about one-third of Muslims in the United States. With such high educational levels, it comes as no surprise that many members of this community have done well; average income for Muslims appears to be higher than the U.S. national average. Although new, the community boasts a good share of millionaires as well as many other accomplished individuals (including one Nobel Prize winner in chemistry, Ahmed H. Zewail, and such notables as the movie actor Omar Sharif, the basketball player Hakeem Olajuwon, and the model Iman). Muslim Americans proudly say that theirs is "the richest Muslim society on earth" (as Muqtedar Khan put it in the December 1995 edition of the *Message*), and they are right; more than that, it may be the most accomplished.

Intra-Muslim tensions

AMERICA CONSTITUTES A microcosm of the Muslim world, with multiple nationalities present as well as elements of Islam's entire cultural, racial, and sectarian diversity. Thrown together, these peoples discover the differences that lie below the surface of their common faith. Much of this is due to differences in custom. Turks put up gravestones and decorate them with laminated photographs of the deceased; Saudis see gravestones (even without pictures) as a form of idolatry and deem photographs even worse. Because they speak the language of the Koran, Arabs sometimes display an impatience bordering on arrogance toward the Islamic practices of non-Arabs. The result is intra-Muslim bias. "Muslim parents do not mind their son marrying a white American girl, but they would object if he married a Muslim girl of a different school of thought (Shi'i/Sunni), or different tribe, like Punjabi, Sindhi, Pathan, Arab vs. non-Arab, Afro-American vs. immigrant, or different class, Syed [descendant of the prophet Muhammad] vs. non-Syed," observes Shahid Athar in *Pakistan Link* (August 18, 1995).

Politics fuels animosities. Iranians and Iraqis have not forgotten their long and bloody war from 1980 to 1988, nor have Kuwaitis forgiven Iraq's 1990-91 occupation of their country. Saudis and other Gulf Arabs are disliked for the way they treat Muslim workers in their countries.

Religiosity is another issue. Are mosques to be moderate or Islamist? Many institutions roil with confrontations along these lines. The most public such dispute has taken place weekly for nearly two decades in front of the Islamic Center in Washington, on the sidewalk of a major avenue. One

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Mohammad Al-Asi, a white convert, tried to take over the mosque in the first flush of the Khomeini revolution two decades ago. He was ousted. By way of protest, he and his crew hold a Friday prayer service on the sidewalk each week.

The conflict between Sunnis and Shi'is, which goes back to the first years of the Islamic religion, still has great force. Shi'is have their own mosques and rarely socialize with Sunnis.

Then there are the enduring tensions with American converts to Islam, who are overwhelmingly African-American. Their enormously different backgrounds cause the two groups — immigrants and natives, foreigners and Americans, Muslims born and reborn — not always to get along well. As one convert puts it, "proselytes almost always complain of the terrible frustration they endure as they struggle to adjust to their new religious community."[4]

Children — and growing up

MUSLIM IMMIGRANTS widely see a range of American customs touching on family relations and the position of women as morally corrupt and endangering their way of life. Their worries include family honor, divorce, abandonment of faith, and intermarriage.

To Muslim parents, children must be respectful, honest, modest, and hard-working. In contrast, they see American children as disrespectful, self-indulgent, proud, and unwilling to work. Many Muslim parents send their children to Islamic schools to control the moral tone of the classroom. Some students find Islamic schools attractive, for they no longer stick out. And yet, Islamic schools do not always isolate Muslim children from the rest of society or solve the problem of uncoolness. Muslim students are known to hide their families' religious values: Ramadan fasting becomes a diet to lose weight, while not going to the mall is a matter of babysitting duties. Some girls leave home wearing the loose-fitting clothes their parents require but carry something tighter to change into on reaching school. The daughter of a Palestinian family attends an Islamic school, where she wears long dresses and *hijab* (head scarf) and sits separate from the boys. But the *hijab* comes off as soon as she's out of school.

The opposite pattern also exists. In recent years, during the revival of Islam, children of unobservant parents found a range of attractions in Islam — morality, discipline, even plain old-fashionedness. The younger generation rediscovers Islam as the religion of its heritage and takes it up with various degrees of strictness. It's not a simple duality, with parents

[4]Jeffrey Lang, *Even Angels Ask: A Journey to Islam in America* (Amana, 1418/1997), 138.

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on one side and children on the other.

Separation of the sexes follows from the assumption that if men and women are allowed to mingle, they will indiscriminately engage in sex, disrupting society. Only in a "modern and enlightened" Muslim family do man and woman meet each other before marriage.[5] Fortunately, the two styles can coexist, though with difficulty, and American Muslims are evolving a compromise between arranged marriage and love marriage.

Just when Muslim girls traditionally would be separated from boys, taken out of school, and perhaps start wearing a head covering, their American counterparts begin to discover and experiment with their sexuality. To prevent such experimentation, Muslim parents seek to enforce the traditional rules and sometimes even cloister their daughters. But the family lacks aunts and uncles to stand guard; by law, girls must go to school until 16 or so; and at 18, they acquire additional rights. Worse, at times the parents' insistence that their children live as though back in Egypt or Pakistan leads to deep tensions and even, when girls and sex are involved, to violence and death.

Still, the restrictions on meeting young Muslim women lead their male counterparts to look outside the community for companionship and sex, which leads inevitably to their getting involved with non-Muslim women and eventually marrying them. This diminishes the pool of Muslim men, leading Muslim women in turn to go out and find Christian men. A Muslim woman being forbidden to marry out, her taking a Christian husband is an act of defiance that effectively expels her from her community and sometimes even her own family, prompting more than a few of them to convert to Christianity.

To encourage the young to marry within the faith, American Muslims are developing a number of novel solutions, including summer camps, socials for singles, and marriage advertisements. But even these Muslim institutions have a difficult time keeping boys and girls apart.

Institutions

ONE SCHOLAR DATES to 1982 and the founding of the Islamic Society of North America the "shift from self-imposed alienation from U.S. culture to tentative experiments at political participation."[6] As late as 1991, an analyst wrote that "Muslims have an

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[5]Badruddin Khan (pseud.), *Sex, Longing, and Not Belonging: A Gay Muslim's Quest for Love and Meaning* (Floating Lotus, 1997), 160.

[6]Yvonne Yazbeck Haddad, "Maintaining the Faith of the Fathers," *The Development of Arab-American Identity*, Ernest McCarus, ed. (University of Michigan Press, 1994), 75.

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inordinately small number of political organizations in contrast to other ethnic and religious groups of comparable size."[7] Since that time, an entire infrastructure of Muslim organizations has developed in the United States. It covers a wide range of concerns — religious, social, political, professional, ethnic, doctrinal.

From the outside, the major Islamic organizations resemble their Jewish counterparts and to some extent are modeled on them. Both take up such issues as religious discrimination, intercommunal relations, and Middle Eastern policy; sponsor testimonial dinners, conferences, and trips to Capitol Hill; and issue press releases, launch direct mail campaigns, take out newspaper ads, and publish periodicals.

Below the surface, however, a profound difference separates the two: Whereas the Jewish institutions are conventional ethnic organizations anchored to the mainstream of American political life, the Muslim ones overwhelmingly pursue an Islamist agenda far outside that mainstream. As one moderate Muslim leader, Muhammad Hisham Kabbani, has warned, extremists have "taken over 80 percent of the mosques" in the United States; another moderate refers to the Islamist leaders as "swindlers" and "radicals." The main institutions of American Islam do not represent the interests and views of the moderate Muslims who are good American citizens.

As one Muslim leader has warned, extremists have "taken over 80 percent of the mosques" in the U.S.

The most visible Muslim organizations are those that claim to represent Muslim political interests, and especially the trio of the American Muslim Council, the Council on American-Islamic Relations, and the Muslim Public Affairs Committee. It is striking to note that all three organizations are Islamist and so seek to forward goals deeply at variance with mainstream American principles (as well as the aspirations and concerns of a majority in the Muslim community). They aspire to achieve four general goals: winning special privileges for Islam (e.g., calling for the creation of a White House Muslim advisory board); intimidating and silencing the opponents of militant Islam (e.g., having death edicts brought down on them, as happened to Khalid Durán); raising funds for, apologizing for, and otherwise forwarding the cause of militant Islamic groups abroad, including those that engage in violence (e.g., the Holy Land Foundation, closed down for raising money "used to support the Hamas terror organization," in President Bush's words); and sanitizing militant Islam (e.g., jihad is not warfare but a form of moral self-improvement).

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[7]Steve A. Johnson, "Political Activities of Muslims in America," *The Muslims of America*, Yvonne Yazbeck Haddad, ed. (Oxford University Press, 1991), 117.

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Which brings us to the subject of terrorism: Since the November 1990 assassination of Rabbi Meir Kahane by an Egyptian, the immigrant Muslim community has been associated with a great number of violent incidents — many having taken place long before the atrocities on September 11, 2001. These include the February 1991 murder of Mustafa Shalabi in Brooklyn, N.Y.; the January 1993 attack on CIA personnel, killing two; the February 1993 World Trade Center bombing; the March 1994 shooting at a van of Orthodox Jewish boys, killing one; the February 1997 murder atop the Empire State Building of a Danish tourist; the October 1999 crash of an EgyptAir flight near New York City, killing 217; the February 2002 murder of a Tennessee state license examiner; and the July 2002 attack on the El Al counter at Los Angeles International Airport, killing two. In its long history of immigration, the United States has never encountered so violence-prone and radicalized a community as the Muslims who have arrived since 1965.

Which way?

Because the immigrant Muslim community is so new, it is still very much in formation. Which way will the first generation of immigrant children turn? Will their dual identities as Americans and Muslims be complementary or contradictory? Will they accept or reject the Islamist program of changing the United States? Will they control the urge toward violence? More broadly, will they insist on adapting the United States to Islam, or will they agree to adapt Islam to the United States? Much depends on the answers.

A few things are clear: However numerous the American converts to Islam, the immigrant community will set the tone. Fashioning a separate American Islam, away from such historic centers as Egypt and Pakistan, will be a great challenge. And both the United States and Islam are likely to be deeply affected by their mutual encounter.

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The Colonial Roots of American Taxation, 1607-1700

By ALVIN RABUSHKA

IT IS SAID THAT TAXES are the price we pay for a civilized society. In modern times, this has meant more and higher taxes, rarely fewer and lower taxes. The tax bite in the United States is one-third of the gross domestic product (GDP). In the Western European democracies, the tax take reaches up to 50 percent.

It was not always so. At the turn of the twentieth century, the tax bite in the United States was a low 10 percent of GDP. And even that level was high by the standards of the American colonies. The first few generations of immigrants who settled the American colonies paid only those taxes that were necessary to provide security against internal and external enemies, a system of courts and justice, prisons, roads, schools, public buildings, poor

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relief, and churches in some colonies. This consumed no more than a few percentage points of their income. Moreover, the early settlers sought to minimize, avoid, and evade those modest taxes to the maximum possible extent. Only in wartime were they amenable to higher taxes, after which taxes were rolled back to the previous low level. The early colonists did not flee Europe to pay high taxes in the New World.

Prelude to the American colonies

BEGINNING IN THE fifteenth century, dreams of gold, silver, spices, and other trading opportunities motivated European adventurers to explore and claim tracts of land in Africa, Asia, and the Americas for their sovereigns and hefty rewards for themselves. The Portuguese, Spanish, French, Dutch, Swedes, Danes, and English engaged in a great land rush. The Portuguese and Spanish divided up most of Latin America. The French seized portions of Canada and several Caribbean islands. The Swedes and Danes briefly occupied parts of Delaware and several Caribbean islands. Dutchmen briefly ruled New York and settled two groups of Caribbean islands. The English (British after union with Scotland in 1707) established colonies along the Atlantic Coast stretching from Newfoundland to South Carolina (founding Georgia in the eighteenth century) along with Bermuda and numerous Caribbean islands.

Most Americans know the story of the first colonial settlement in Jamestown, Virginia, in 1607, and that of the Mayflower Compact and the New Plymouth settlement in 1620. Apart from stories of personalities, religious disputes, immigration from Europe, and the beginnings of slavery, the public is less conversant with the subsequent development of the American colonies from the founding of Jamestown and New Plymouth until the opening salvo of the French and Indian Wars in 1754.

Although numerous economic accounts have been written about the early colonies, few are explicitly concerned with taxation. Most books and articles deal with daily economic life. Taxation became a central theme only from the end of the French and Indian Wars up to the Declaration of Independence. To this day, there is no single comprehensive volume on taxation during the colonial period. To understand "no taxation without representation" and Americans' skepticism of taxes requires a more comprehensive review of colonial taxation than the Stamp Acts and the Boston Tea Party.

This article is the first in a series examining the colonial roots of American taxation. This essay reviews the first century of colonial taxation in America. Others will survey 1700 through the French and Indian Wars and the years leading up to the Declaration of Independence, the Articles of Confederation, and, finally, the Constitution of the United States. Taken together, these essays will show the limited scope and low rates of taxation,

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the response of the colonists to taxation, and the purposes on which public funds were spent between 1607 and 1783, a period encompassing 176 years.

Founding and growth of the American colonies

THE FOUNDING AND growth of the original American colonies were a slow process.[1] It took from 1607 to 1630 to reach a combined estimated population of 4,646 in six colonies: Maine, New Hampshire, Plymouth, Massachusetts, New York, and Virginia. By 1640, new settlements had been placed or developed in Rhode Island, Connecticut, and Maryland, bringing the colonial population to 26,634. It nearly doubled to 50,358 by mid-century, with one new colony established in Delaware.

During the next three decades, the colonies of Carolina, New Jersey, and Pennsylvania were established. Maine joined with Massachusetts. Total estimated population of the colonies reached 151,507 in 1680. Of these, Negroes numbered 6,971, of which some 3,000 were in Virginia.[2] In the last two decades of the century, no new colonies were established. Plymouth merged with Massachusetts in 1691. The population of the colonies grew to 250,888 in 1700, of which Negroes numbered 16,729 (11.2 percent), as slavery provided labor for tobacco and other plantations.

The first American century consisted of coastal, sparsely populated settlements. For purposes of comparison with the mother country, the population of England in 1607 has been estimated at 4,303,043, rising modestly to 5,026,877 in 1700. During the 1600s, England encouraged migration to the colonies to help ward off French ambitions in the new world.

After an initial period of high mortality, the colonists soon acclimated to their new circumstances. Better economic conditions and the absence of wars and violent religious disputes attracted thousands of European migrants, freemen and indentured servants alike. The colonists enjoyed greater abundance and variety in their diets. Low densities and dispersed settlements minimized the spread of communicable diseases and epidemics. Abundant forests provided heating fuel. Infant mortality rates quickly fell below those in Europe. A typical colonial family had eight children, double

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[1]Population figures are found in U.S. Bureau of the Census, *Historical Statistics of the United States: Colonial Times to 1957* (U.S. Government Printing Office, 1960), Series Z1-19, "Estimated Population of American Colonies: 1610-1780," 756.

[2]The word "Negro" is used in the Census Bureau's statistical tables.

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that of England and Europe. By 1700, colonial women routinely lived into their sixties despite risks of death in childbirth.

By the mid-1600s, the colonies were fast becoming lands of opportunity.[3] About three-quarters of the colonists were farmers. A typical farm often exceeded 100 acres. Farmers produced surpluses of grain that rivaled the output of tobacco. A colonial adult farmer consumed 150-200 pounds of meat a year; most corn was fed to livestock. Farm families supplemented agricultural work with handicraft production.

Most farmers owned their land. To encourage immigration, colonists often received free or almost free land. Land was readily available at low prices, and new land was accessible on the frontier. Many tenants acquired their own land after a short period of tenancy, a change in status that was virtually impossible in Europe. Most immigrants and native-born colonists enjoyed ample opportunity to acquire property. Upon completing terms of indenture, on average four years in duration, servants often received plots of land on which to begin their lives as freemen. Many became successful farmers and acquired servants of their own. It has been estimated that from half to two-thirds of all migrants to the colonies came as indentured servants, though servants rarely exceeded a tenth of the colonial population at any one time.

Adam Smith cited plenty of good land and liberty as the great causes of colonial prosperity.

Grants of land were frequently used as a means of payment to ministers and other officials, which helped to keep taxes low. In his *Wealth of Nations,* Adam Smith cited plenty of good land and liberty as the two great causes of colonial prosperity.

The remaining colonists were skilled or unskilled artisans, day laborers, and seamen who congregated in villages, towns, and port cities. A few became merchants or large planters. Colonial workers earned 2-3 shillings a day, double to triple the wages of their English counterparts. Colonial seamen also fared better. Desertion from English crews to work on colonial ships was widespread.

Money in the colonies

A FEW WORDS ON the means of payment are required to understand the difficulties of collecting taxes. Public accounts were kept in English sterling, in pounds (£), shillings (*s.*), and pence

[3]An excellent treatment of the colonial economies is found in Edwin J. Perkins, *The Economy of Colonial America,* Second Edition (Columbia University Press, 1988).

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(*d.*).[4] However, few sterling coins circulated in the colonies. The colonies lacked an indigenous supply of gold or silver from which to mint coins. They acquired coins largely through trading with Spanish and French colonies in the Americas. A variety of foreign coins — of which the Spanish piece of eight, which came to be called the dollar and later the basic unit of the U.S. monetary system, was the most widespread — served as a medium of payment. Colonists were remarkably adept at dealing with numerous coins of different values and weights. About half the coins were Spanish (mostly minted in Mexico) silver dollars. For 400 years, the standard Mexican dollar contained a specific amount of silver. From 1601 to 1816, a troy ounce of silver was worth 5*s.* 2*d.* at the official English rate, making a standard Spanish dollar worth 4*s.* 6*d.*

By the middle of the seventeenth century the colonies were fast becoming lands of opportunity.

Throughout the seventeenth century, the American colonies depended on imports for a wide range of consumer goods. The cost of imports invariably exceeded the value of colonial exports. As a result, much of the specie that found its way into the colonies was shipped to England and other European countries to settle the colonists' bills.

Colonial legislatures did their best to retain specie, which was deemed important to facilitate commerce. They enacted legislation that overvalued the Spanish dollar at 5*s.*, 6*s.*, and even more in some instances. However, these measures failed to stem the export of coin to England and Europe. The chronic shortage of specie required the colonists to improvise alternative means of payment. They resorted to barter, payment in commodities, and such paper instruments as private promissory notes and bills of exchange drawn on London merchants.

Fees, taxes, and personal debts could be settled in any form of lawful money. Colonial legislatures gave locally produced crops (cereals, corn, tobacco, rice) official value for payment of taxes. Other lawful commodities included beaver skins, cattle, and wampum (black shells were valued at double the rate of white). Milk pails were accepted as tax payments in the town of Hingham. Commodities were a clumsy, inefficient form of payment. They had to be valued for tax purposes, delivered to the government, stored, preserved, and then distributed as payment.

To minimize taxes, colonists shipped their worst products to colonial treasurers. In Virginia, quitrents were paid in tobacco. In the 1680s, the audi-

[4]One pound equals 20 shillings; one shilling equals 12 pence; so one pound equals 240 pence.

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tor-general reported that "the quantity of unmerchantable leaf passed upon collectors was so large that the revenue from this source had dwindled almost to nothing."[5] In 1686, in response, the king of England repealed the statute that had given legal validity to quitrent payments in tobacco (though it was restored in 1688). Rhode Island officials complained of having a hard struggle to keep out "lean" cattle as payment in taxes. Among themselves, however, the colonists discounted the official value of commodities (the discounted price became known as "country pay") to compensate for costs of storage, shipping, and losses due to deterioration. Commodities exchanged in private transactions were of higher quality and lower prices than those remitted to colonial governments in taxes.

Also noteworthy is that the American colonists have the distinction of issuing the first paper money of any government in the Western world. Official paper money was first issued by the Massachusetts Bay Colony in 1690. (Seven more colonies followed by 1712.) A military expedition led by its governor, Sir William Phipps, set out in the fall of 1690 to conquer Quebec. It failed. The colonial government expected the soldiers to be paid from seizing the enemy's treasury. Upon their return, the surviving soldiers demanded immediate pay from the government. The colonial treasury was empty, as revenues were collected only to meet anticipated annual expenditures. The solution was to issue bills in the form of "certificates of indebtedness" to the possessor on the part of the legislature. Bills would be receivable by the colonial treasury in payment of taxes. The law provided that a portion of the notes would be called in and retired (destroyed) each year as revenues materialized.

The bills issued in 1690 were called Colony or Old Charter bills. They became known as "bills of public credit," or "bills of credit" for short, and were printed in denominations of 5s., 10s.. 20s., and £5. Their issue was justified on the basis of borrowing for a specific public expenditure. The bills were not called money since none of the colonies had received the right to coin money. Bills of credit were inscribed as legal tender and valid payments for all obligations, including taxes and bills of exchange. The original issue in the amount of £7,000 was raised to £40,000 a year later.

Bills of credit were initially met with distrust. Soldiers who received the first bills were able to exchange them for no more than 12-14 shillings to the pound in other forms of money. To establish public confidence in them, by an act in 1692 the General Court of the colony, its governing body, attached a 5 percent premium in their use to pay taxes (which remained in place until 1720). This measure made bills of credit more valuable than other lawful money. By early 1693, most of the bills had been redeemed. Popular demand for bills of credit to facilitate commerce and payment of

[5]Philip Alexander Bruce, *Economic History of Virginia in the Seventeenth Century*, Vol. 1 (Macmillan and Co., 1896), 562.

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taxes led to their regular reissue. Bills of credit remained at par with specie for about 20 years.

The early chartered colonies

THE SETTLERS WHO migrated to and/or resettled in the colonies of Plymouth, Massachusetts, Maine, New Hampshire, Rhode Island, and Connecticut paid little to nothing in taxes during the first few decades of their establishment. The English government imposed almost no taxes. For example, the charter for the Massachusetts Bay Colony granted an exemption from all royal taxes, subsidies, and customs for seven years and from all taxes for 21 years, except a 5 percent duty on imports into England. The chartered companies that established the colonies initially collected only quitrents, a land tax originally paid by freemen to the Crown or to the company that held a charter from the Crown. The quitrent, an annual payment of a fixed rate of several shillings for each hundred acres of land, secured a freeman's title to his land; it was paid in lieu of the services traditionally required by feudal custom.

The early colonies were sparsely settled and even more sparsely administered. The few officials who served did not receive official salaries until sometime in the 1640s. Their compensation came from fees for services rendered. These included issuing court papers, keeping records, arresting and punishing criminals, and issuing licenses. In the early years, voluntary contributions supported spending on civic activities and church ministers. Too many free riders induced leaders to make contributions compulsory. Taxpayers were recognized for their contributions; in Dedham, for example, the largest taxpayers received the best seats in church.[6] The small sums collected by colonial governments were spent largely on roads, churches, and schools.

Reflecting the values of the day, a prominent nineteenth-century historian, Richard T. Ely, wrote that "one of the things against which our forefathers in England and in the American colonies contended was not against oppressive taxation, *but against the payment of any taxes at all*" (emphasis added).[7] Those who braved the hardship of travel across the Atlantic and who tamed a wilderness on their own did not relish paying taxes to any government.

But taxes were not long in coming. Growing populations in the colonies

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[6]This story and other interesting anecdotes about taxation are scattered throughout William B. Weeden, *Economic and Social History of New England, 1620-1789*, Vol. 1 (Houghton, Mifflin and Company, 1894).

[7]Richard T. Ely, *Taxation in American States and Cities* (Thomas Y. Crowell & Company, 1888), 108.

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necessitated defensive measures against Indians and other European intruders, along with the need to build and maintain roads, schools, prisons, public buildings, and ports and to support poor relief. A variety of direct and indirect taxes was gradually imposed on the colonists. The corporate colonies in New England enjoyed the legal right to levy direct taxes on their residents, which stemmed from the right of trading corporations to levy assessments on their stockholders.

In 1638, the General Court in Massachusetts required all freemen and non-freemen to support both the commonwealth and the church. Direct taxes took two forms: (1) a wealth tax and (2) a poll, or head tax, which in some instances evolved into or included an income tax.[8]

The wealth tax was based on what was known as the country "rate," which amounted to a property tax. Government officers carried out assessments, or sometimes the process involved self-assessment subject to audit, on the value of raw and improved lands (meadow, plowed, and hoed land), goods, stock used in trading, boats and other vessels, mills, and other visible assets. Each year, the three units of colonial government — the province, the county, and the town or village — drew up a list of proposed expenditures. To support these governments, a rate of tax was applied to the assessments to generate the requisite funds, resulting in a colony rate, a county rate, and a town or village rate.

While the methods of assessment and the rates of tax varied among the New England colonies, the evidence suggests that effective tax rates on land and other real assets were below 1 percent. Government expenditures were low, which minimized the need to impose high rates. In addition, the colonists evaded, avoided, and resisted even these low rates by trying to conceal assets and have land classified as least developed.

The country rate was initially levied as a lump sum in the form of quotas among towns, which assessed and collected taxes to meet their quotas. Massachusetts switched to direct taxation of individuals several years later. Magistrates and clergymen were generally exempt from payment of rates. In Rhode Island, the rate ranged between a farthing (a quarter of a penny) and a penny in the pound, which amounted to a tax rate ranging from 0.1 percent to 0.4 percent of assessed farmland and goods. In Massachusetts, the tax was a penny in the pound, a rate of 0.4 percent.

A second direct tax was the poll, or head, tax. The Massachusetts law of 1646 served as a model for the New England colonies. Every male 16 years and older, the year of registration for potential military service, was required

[8]A discussion of specific taxes is found in Herbert L. Osgood, *The American Colonies in the Seventeenth Century*, Vols. I and II, The Chartered Colonies, Beginning of Self Government (Peter Smith, 1957). Originally published in 1904 by Columbia University Press. See Chapter XII in Volume I, 468-95, and Chapter XIV in Volume II, 347-74.

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to pay an annual tax of 1*s*. For administrative simplicity, the tax was often combined with the country rate.

Although the modern income tax dates from the adoption of the Sixteenth Amendment in 1913, an income-like tax, known as a "faculty" tax, appeared very early in the New England colonies. A Massachusetts Bay law of 1634 provided for the assessment of every man's assets and the product of his abilities. In 1643, assessors were appointed to rate inhabitants on their estates and their faculties, which included personal abilities. Further definition three years later specified the taxation of "laborers, artificers, and handicraftsmen" on their "returns and gains."

It is possible to estimate roughly the effective rates of the poll and faculty taxes. The text of the Massachusetts law stipulates that artificers who were paid 18*d*. per day in the summer should pay 3*s*. 4*d*. a year in faculty tax in addition to their poll tax (day laborers, engaged in sporadic work, were exempt). Assuming 78 days of work (13 six-day weeks during the summer season), an artificer would earn £5 17*s*. during the summer. If he earned at least that much in other work during the rest of the year, which was not subject to additional income tax, his annual income would be in the neighborhood of £12. A tax of 4*s*. 4*d*. (poll tax plus faculty tax) on an annual income of £12 amounts to an effective total tax rate of 1.8 percent on labor income. Higher annual earnings imply a lower tax rate. If total annual earnings reached £20, his total tax rate would be 1.1 percent. At that time, public officials received annual stipends ranging from £20 to £50. On an annual income of £12, by itself the one shilling poll tax rate represents a rate of 0.4 percent. The Connecticut, New Haven, and Rhode Island colonies incorporated the faculty tax into their codes.

From the very beginning, assessments and levying of taxes were democratic.

Two rules governed colonial budgeting: (1) limited expenditure and (2) fiscal balance. The level of country rate and poll tax was set to meet annual requirements, and no more, which rarely required more than a penny in the pound on property and the basic poll tax. During Indian conflicts, a multiple of the rates and poll tax might be applied (during King William's War late in the last quarter of the century, the tax in Massachusetts reached 16 rates); at other times, perhaps only a fraction of the rate might be authorized.

From the very beginning, assessments and levying of taxes were democratic. Inhabitants of colonial towns chose a freeman from among themselves to serve as commissioner. It was his responsibility to identify all eligible males and estimate the value of their assets. Lists were sent to the colonial treasurer, who issued warrants to town constables to collect specified sums. Merchants were assessed on the basis of the value of their cargoes (lest they leave town between the times of assessment and collection). Despite low rates, full payment of taxes was rarely secured.

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Direct taxes were supplemented by several import and export duties in the New England colonies (save in Rhode Island). For several brief periods, Massachusetts imposed a "tonnage duty" of 1*s*. per ton on vessels trading, but not owned, in the colony, which was earmarked to maintain fortifications. In 1636, Massachusetts launched the system of customs revenue in New England when it imposed import duties of one-sixth ad valorem on fruits, spices, sugar, wines, liquors, and tobacco. A low 2 percent ad valorem duty was subsequently levied on silver plate, bullion, and merchandise in general. Plymouth placed export duties on such products as boards, barrel staves, tar, oysters, and iron. Salt was exempted from most duties as it was an important ingredient in the preservation of codfish, an important export. Indirect taxes were modest and focused largely on the "sins" of drinking and smoking.

The New England colonies resorted to tax exemptions on numerous occasions to encourage the development of specific industries. In 1645, Massachusetts gave land, a ten-year tax exemption, and a monopoly to a company engaged in iron making; by 1648, it was producing a ton of iron a day.[9] In 1665, Connecticut granted a seven-year tax exemption to anyone setting up a forge. (Although these early companies failed, by the time of the Revolution, the colonists produced annually about 30,000 tons of wrought and cast iron, one-seventh of world output. The number of forges and furnaces in the colonies probably exceeded the number in England and Wales combined.)

Fisheries were deemed especially important. Massachusetts exempted vessels and equipment from all country rates for seven years, and ship carpenters, millers, and fishermen were excused from military training. Codfish and shipping became engines of growth in New England.

The later proprietary colonies

PROPRIETARY COLONIES differed from chartered colonies in that the public revenue of the colony belonged to the private proprietor rather than to the common shareholders of the chartered corporation and the freemen who subsequently became residents. The proprietary colonies included New York (New Netherlands under Dutch rule), Maryland, New Jersey, Pennsylvania, and Carolina (which formally separated into North and South Carolina in 1712).

Royal grants to proprietors represented title to real property that could be divided, sold, mortgaged, leased, conveyed in trust, and divided among heirs. Although the proprietor was the landlord of his estate, he was not a

[9]Bernard Bailyn, *The New England Merchants in the Seventeenth Century* (Harper & Row, 1964), 62-71.

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feudal lord. He could govern and tax only with the consent of his tenants. Since empty land generated no income, he advertised for settlers on attractive terms.

Incentives took two forms. The most common was grants of land. Lord Baltimore offered a contract to each free married man who paid £20 for his transportation to Maryland that provided 100 acres of land, with extra allotments for his wife, adult indentured servants (hereafter servants), and children. Any individual who brought five more persons to Maryland received an additional 1,000-2,000 acres. The proprietors of Pennsylvania, New Jersey, and Carolina offered similar terms. William Penn offered 200 acres to any settler able to pay an immediate quitrent, with 50 additional acres for every servant he brought over, but the recipient was required to improve his land within three years or have it recovered by the proprietor. Undeveloped land generates no income.

The proprietor was the landlord of his estate; he could govern and tax only with the consent of his tenants.

This policy worked well for Lord Baltimore. By the end of the seventeenth century, his subjects numbered 30,000. The plantations along the lower Potomac and Chesapeake Bay were producing 50 thousand hogsheads of tobacco a year (a hogshead is 63 imperial gallons), worth some £100,000 at then market prices. The proprietor collected £12,000 from his tax on tobacco, port fees, quitrents of 2 shillings per hundred acres of land, and fees for preparation of legal documents. After paying his officials and other expenses, he netted £5,000, a huge sum for that time.

Tax exemptions were also used to attract settlers. In New Netherlands, free settlers were exempt from taxes and customs for 10 years. In Carolina, the proprietors encouraged their settlers to produce wines, silks, olives, and other semitropical products, which were given an exemption from customs duties in England for a period of seven years.

To profit from the development of his colony, collect quitrents and fines, and recover land from settlers without heirs or who failed to meet the terms of their contracts, each proprietor required a system of territorial administration.

Proprietary colonies had to ensure law and order, provide for their own defense, and build and maintain roads, prisons, public buildings, and fortifications. Proprietors were authorized to impose levies on their subjects. Direct taxes, authorized by statutes enacted in colonial legislatures, included general property tax, typically combined with the poll tax, and a direct land tax in some instances. The poll tax was set at an age consonant with military service, 16 in some colonies and 14 in others. Indirect taxes included tonnage duties, import and export duties, and excises.

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In New Netherlands, the chief direct tax was the tithe, a tax on land amounting to one-tenth of the annual harvest following an initial 10-year exemption. As settlements were few and far between, little revenue was collected. The city of New Amsterdam established a fire patrol in 1657 financed by a tax on chimneys, an early example of an earmarked tax. When the Duke of York took control of New York from the Dutch, a small minority of colonists was subject to property tax. As late as 1676 in New York City, only 302 persons out of 2,200 residents were listed for taxation. A relatively small minority bore the burden of the rate, a penny in the pound (0.4 percent) on real estate and personal assets.

Tax rates varied with wealth. At the close of the seventeenth century, residents of Pennsylvania with real estate and personal assets worth less than £30 were exempt. Adult males worth less than £72 paid a reduced poll tax of 6 shillings. Even these low rates were vigorously resisted as farmers consistently undervalued their property and overvalued their produce, the means of payment. The colonial governor of New York warned the English Crown in 1688 that attempts to strengthen tax enforcement or impose new taxes would result in the departure of his subjects to other colonies.

Freemen taxpayers exercised considerable influence on the proprietors and their executive officials.

Early New Yorkers were also subject to import duties and excises. The English takeover of New York in 1664 imposed English rates. Liquors were taxed at 10 percent. All other merchandise imports gradually became subject to ad valorem duties, with preferential rates given to imports from England. Non-English goods were taxed at 8 percent, while English goods paid 5 percent. Export duties of 10.5 percent were charged on peltries and 2*d.* per pound of tobacco, to be paid in beaver and wampum. In 1674, the duty on English merchandise was reduced to 2 percent.

New York taxpayers were not amused. Customs rates were imposed on a three-year basis. When the customs law of 1677 was not renewed in 1680, several colonists seized the collector of customs as he tried to enforce the expired law. They tried him in local courts, convicted him, and returned him to England as a prisoner (where he was subsequently exonerated). The Duke of York, to whom the English king had given New York in 1664, thereafter paid greater heed to the complaints of his subjects. Colonial governments in Maryland and South Carolina imposed few import or export duties, and there is no record of customs duties in New Jersey before 1702.

Proprietary colonies relied heavily on fees to support the activities of public officials, which were regulated by colonial legislatures. Almost from the beginning, in all the proprietary colonies except New York, proprietors and

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their executive officials were dependent on annual appropriations of their legislatures, which set specific rates of duties and direct taxes. The power of colonial legislatures to appropriate taxes reflected English precedent, which established Parliamentary supremacy over appropriations. Freemen taxpayers of the colonies exercised considerable influence over the ambitions and activities of proprietors and their executive officials by withholding funds.

Virginia, the first royal American colony

VIRGINIA IS A special case in the seventeenth century as an early example of a royal colony. On April 10, 1606, King James I chartered two Virginia companies, granting them all the land between 34 and 45 degrees north, extending inland 100 miles. The charters provided for local councils with jurisdiction over each colony, subject to a central governing board in England. The charter specified that colonists were to enjoy the liberties, privileges, and immunities of native-born Englishmen.

An expedition from one of the two companies left London on December 20, 1606, and settled on the Jamestown peninsula on May 13, 1607. A sealed box was opened, which identified the names of the councilors who were to administer the colony. The names are a *Who's Who* of early American history. The early years were filled with tribulation. As late as 1616, the colony numbered only 351 persons, not much to show for a decade of effort and expenditure.

The arrival of a new governor in 1619 heralded a change in the administration of the Virginia colony. His instructions called for the establishment of a general assembly consisting of executive councilors chosen by himself and a House of Burgesses elected by all male colonists. He appointed 6 councilors, and 22 Burgesses were elected.

Luck continued to evade the colony. Hitherto peaceful Indians massacred 350 colonists on March 22, 1622. An outbreak of malaria and diseases that afflicted newly arriving colonists also forestalled rapid population growth. As if this were not bad enough, the Virginia Company verged on bankruptcy. Stockholders, who had never received any dividends, quarreled among themselves. In July 1623, the Privy Council in England assumed temporary jurisdiction over the colony. It recommended abolishing the original charter and transferring the colony to the king's jurisdiction. In May 1624, England's high court vacated the charter, dissolved the company, and established England's first royal colony in America. Virginia began its royal existence with fewer than 1,500 inhabitants. A recurring problem was how to finance the cost of royal colonial government, which pitted the Crown and its governors against the taxpaying colonists.

Prior to 1625, every planter or adventurer who came at his own expense and remained for three years received 100 acres of land exempt from

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quitrents. Those who arrived later were subject to quitrents of 2 shillings per hundred acres. A landowner's failure to pay for several years entitled the Crown to reclaim his land. Initially, quitrents were to be paid in specie, but a shortage of coin prompted the Virginia Assembly in 1645 to authorize payment in tobacco at 3 pence per pound. The rate was reduced to 2 pence a pound in 1661, reflecting a lower market price for tobacco. In 1686, the Crown intervened directly, requiring payment of quitrent in coin after it was reported that most of the tobacco that had been received in payment was unmarketable. After the Glorious Revolution of 1688, payment of quitrent was reinstated in tobacco at the rate of one penny per pound. Throughout the century, quitrent payments were routinely evaded, becoming for all practical purposes a voluntary payment by landowners.

The colony's government required revenue of its own to carry out minimal public functions. Accordingly, the Virginia legislature authorized a poll tax on caucasian males 16 and older. The head of household and owner of slaves also paid poll tax on slaves and native American servants of both sexes 16 years and older. Deemed to fall disproportionately on the poorer elements of the community, the poll tax was temporarily abolished in 1645. It was replaced with a tax on livestock — 32 pounds of tobacco for every horse, mare, or gelding, 4 pounds for every breeding sheep, 2 pounds for every breeding goat, and 4 pounds for every cow over three years of age. However, the tax on livestock was short-lived. It was repealed in 1648 as the legislature discovered that it discouraged the development of animal husbandry.

From time to time, tax incentives were used to encourage diversification from heavy reliance on tobacco. To encourage the production of hemp, pitch, and tar, in 1664 the English government exempted these commodities from English import duties for a period of five years.

To encourage the development of locally owned shipping, in 1660 the Virginia Assembly imposed a tax of 10 shillings per hogshead of tobacco exported in ships not required to deliver their cargo to English dominions in Europe. Virginia-owned vessels were declared exempt in order to induce shipowners and mariners to take up residence in Virginia. Most shipping remained in the hands of New Englanders.

Import duties were imposed on such items as slaves, servants, wine, gunpowder, and shot, and an export tax of 2 shillings was levied per hogshead of tobacco. An export tax on furs financed the maintenance of William and Mary College. The expenses of most colonial officials were paid from fees rather than official salaries.

Tobacco duties were routinely evaded. Shipowners often arranged for tobacco to be smuggled on board. Others arranged to ship tobacco in bulk rather than in hogsheads. Bulk packaging reduced the number of ships required to transport tobacco by one-sixth, thus depriving the colony of port duties and lost business. A law passed in 1696, reflecting the political power of the planters, increased the size of a hogshead by one-fifth, which further

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diminished the revenue from export of hogsheads.

During most of the seventeenth century, the governor's salary and expenses depended on annual votes of the Virginia legislature. Seeking a source of revenue independent of the legislature, in 1680 the governor threatened to increase quitrents and enforce their collection. In exchange for withdrawing his threat, the legislature granted him a permanent export duty of 2 shillings per hogshead of tobacco in place of the previous annual appropriations. While substantially evaded, it provided enough revenue for his annual salary and executive expenses. Other colonial legislatures, such as Massachusetts and New York, never accorded their governors permanent sources of revenue, giving their taxpayers greater control over their executives. Virginia became a model of independent executive finance that royal colonies would seek to emulate in the eighteenth century.

Delaware

DELAWARE IS OF interest in that it went through Swedish and Dutch rule before England's takeover in 1664. A Swedish limited liability company established the first permanent European settlement in what is now Delaware in March 1638. King Gustavus Adolphus granted William Usselinx, promoter of the New Sweden Company, a charter with a life of 12 years. The company received a monopoly of trade between Sweden and the New World. The charter provided for a tax of 4 percent on imports and exports, with the Swedish government to receive a fifth of all ores and a tenth of all agricultural output. Settlers were to receive a 10-year tax exemption, after which they would pay 5 percent duty on imports and exports to be used for local government.

The company supplied three civilians and 32 soldiers to administer and guard the colony. The initial costs were financed by an excise tax on tobacco imported into Sweden from Holland (not from the colony). Most of the settlers grew tobacco, which was exempt from taxes. Annual government expenses in the last year of Swedish rule amounted to 4,404 rixdalers, which was financed solely by import duties on liquor and other merchandise and an export tax on furs.

The Dutch West India Company took over the colony in 1655. Its vice director imposed duties on imported liquor, beer, and wine and a small rate of 12 stivers (about 25 current U.S. cents) on each morgen (2 acres) of land. The colony was a losing business proposition.[10] The company lost money and became indebted to the City of Amsterdam, to which it ceded half the colony in 1656 and the rest in 1663. Settlers were promised 10 years of

[10]In general, all the American colonies failed as commercial ventures. Investors seeking private gain inadvertently laid much of the foundation of America.

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exemption from direct taxes and thereafter were to pay taxes no higher than the lowest in New Netherlands. They were also granted freedom from tithes for 20 years.

On behalf of the English Crown, the Duke of York governed Delaware from 1664 to 1682. Its first English administrator continued the existing system of taxation and added a 10 percent general tariff on imports and exports. The governor of New York also became governor of the Delaware colony in 1673. His attempt to levy a penny in the pound on estates proved hard to enforce due to distance and undervaluation of estates. His effort to collect poll taxes also proved difficult. Fines were imposed on those who failed to make required labor contributions, but these were rarely collected.

From 1682 to the end of the century, Delaware was joined in legislative union with Pennsylvania under the proprietorship of William Penn. Under his charter, Penn was permitted to tax only with the advice and consent of the freemen in the colony.

Penn sold land at the incredibly low price of 10 pence per acre down payment with a quitrent of one-fourth penny per acre. The three lower colonies of Delaware that became part of Penn's original grant from Charles II attracted Europeans who wished to escape religious wars. The Assembly and Executive Council of Pennsylvania-Delaware financed public services with fines, a tax of a penny per ton on all vessels over 12 tons, and duties of 2 pence per gallon on strong liquor and 1 percent ad valorem on all other goods. Counties were permitted to levy direct property and poll taxes to underwrite roads, bridges, and ferries. Few schools were supported from public funds (yet colonists were subject to fines if children could not read and write by the age of 12).

On several occasions, the queen demanded that Pennsylvania-Delaware residents contribute men and money to military efforts against Indians in New York. Several taxes were authorized, including a penny in the pound levy on all property, real and personal; those with net estates less than £30 were exempt. Freeman rated under £100 paid a poll tax of 6 shillings. Pennsylvania-Delaware taxpayers never fully met the queen's requests. A request to provide £350 for the erection of a fort above Albany was refused outright in 1701.

English imperial control

THE ENGLISH GOVERNMENT imposed implicit and explicit taxes over its American colonies. Implicit taxes took the form of the Navigation Acts, which sought to regulate shipping between the colonies and its trading partners. Explicit taxes consisted of customs duties imposed on goods exported from the colonies to England and other destinations, and customs duties paid on imports arriving in England. Although these taxes remained modest throughout the seventeenth centu-

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ry, the duties on exports were routinely evaded.[11]

As early as October 1621, Crown officials issued an order that required American colonial planters to ship all their products to England. This order was designed to ensure payment of customs to the Crown, an important source of royal revenue that did not require parliamentary approval. Similar instructions were issued to royal governors of Virginia in 1627, 1631, 1633, and 1639, and also to Lord Baltimore in Maryland in 1642. Paragraph 30 of the instructions issued in 1642 to Virginia governor Sir William Berkeley required that every ship loaded with tobacco or other commodities must post bond to guarantee that the products would be transported to English destinations and that each captain must have a bill of lading on which customs and other duties could be levied upon arrival in England. Paragraph 31 further instructed him to limit trade to English-owned ships. If some exigency required recourse to a foreign ship, bond must first be taken from both its master and owner to insure it would proceed to England and pay duties. Follow the money.

The Navigation Act was intended to weaken Dutch shipping, one of England's main rivals.

These royal instructions were precursors of the Navigation Acts. Parliament passed the first Navigation Act in 1651. It stipulated that the produce of the American colonies (and goods from Africa and Asia) could be transported to England, Ireland, or any English possession only in English-owned ships, manned primarily by English sailors. For purposes of the act, American colonists were regarded as English. Foreign ships could only carry goods originating in that same foreign country into English territories. The act reflected the economic doctrine of mercantilism, a theory based on a national policy of ensuring a favorable balance of trade, accumulating bullion, establishing colonies and a merchant marine to supply the mother country with vital raw materials and other goods, and developing industry in the mother country. The act was also intended to weaken Dutch shipping, one of England's main rivals.

Following the Stuart Restoration in May 1660, the 1651 act was reenacted and extended. It excluded all foreign ships from English colonial trade. All vessels involved in trade between England and its overseas territories had to be English owned and manned by an English master, with three-fourths of its crew English (or colonists). Extensions to the act specified that certain colonial, or enumerated, products, including sugar, tobacco, cotton-wool,

[11]An excellent source is Thomas C. Barrow, *Trade and Empire: The British Customs Service in Colonial America, 1660-1775* (Harvard University Press, 1967).

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indigoes, ginger, and certain dying woods, could be shipped only to England. The Navigation Acts were intended to prevent the colonies from developing their own industries, which might compete with those in England, and selling their products to England's rivals, especially the French and Spanish.

Next to follow, the Staple Act of 1663 permitted nonenumerated goods to be transported in English ships from the colonies to foreign ports. However, foreign produce taken on board destined for the colonies first had to be shipped to England. There the goods had to be unloaded, duties paid, and only then the cargo reloaded for shipment.

The Navigation Acts were enacted to regulate trade between England's overseas territories and the mother country. However, they failed to take into account the growth of commerce between the colonies, which was duty free. Colonists could buy merchandise from each other cheaper than residents in England, who paid customs duties on imports. Many New England shippers ostensibly picked up tobacco in Virginia for delivery to other sister colonies. However, New England vessels routinely sold tobacco in New Amsterdam. Reshipment to Holland was estimated to deprive the Crown's treasury annually of £10,000. One report in 1666, likely exaggerated, claimed that £100,000 in revenue was lost in the improper sale of Virginia tobacco. Under the pretense of shipping goods from one colony to another, colonial shippers routinely evaded the Navigation Acts. It was not possible for the Royal Navy to track hundreds of colonial ships plying the coastal and oceanic waters. The English government grew increasingly alarmed at these evasive measures and loss of revenue. In 1672, a duty of one penny a pound was imposed on all tobacco shipped from colony to colony. If subsequently shipped to another English colony, a second penny duty was paid. In 1673, Parliament enacted legislation requiring that duties be paid before enumerated products could be loaded in the colonies unless bond was posted to guarantee that the goods were destined for England.

The colonies set a firm low-tax foundation that underpinned the economic freedom of Americans to come.

The Act of 1673 extended the English customs service to the colonies. The first official customs agent was sent to Virginia to ensure that tobacco was shipped only to England and that royal duties were fully paid. His incentive was payment as a percentage of collected receipts, and he could request the Royal Navy's help to enforce the act.

The colonists were no more eager to pay taxes to English customs officers than they were to their own colonial governments. During the first few decades following the 1673 act, the colonists killed three customs officers, imprisoned two others, tried one for treason, and persuaded one to join them.

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How were they able to flout England? Implementation of the Navigation Acts was entrusted to colonial governors and their officials. In most cases, colonial governors had more in common with their subjects and their growing prosperity than with a distant English government. Colonial governors were not willing to surrender authority to "foreign agents." Many seventeenth century colonial governors were already more American than English.

The hand of English regulation was lightened after William of Orange landed in England in 1688. His kingdom was embroiled in war with France during 19 of the next 25 years, and England needed the support of its American colonies in this conflict. The king and Parliament thus accorded colonial governments a high degree of autonomy.

At the close of the seventeenth century, the Navigation Acts were honored more in the breach than in the observance. Taxes collected for the Royal Treasury were modest. Things would change markedly after the French and Indian Wars, but this is the subject for a later essay.

Foundation

When the dust settled on the seventeenth century, 250,000 colonists had secured for themselves the power to tax and spend that was largely free from governors and their officials sent from England, appointed by the proprietors, or selected from among themselves in the charter colonies. Even when rates, poll taxes, duties, and other levies were authorized by elected representatives to colonial legislatures, taxpayers sought to minimize their taxes in every imaginable way, from hiding real assets to undervaluing farmland to making payment in substandard commodities to outright refusal to pay. The first century of the American colonies set a firm low-tax foundation that underpinned the economic freedom of generations of Americans to come.

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BOOKS

The Unlikely Imperialists

By JOSH LONDON

MAX BOOT. *The Savage Wars of Peace: Small Wars and the Rise of American Power.* BASIC BOOKS. 428 PAGES. $27.50

THE TRANSFORMATION over the past decade of the intellectual framework in which U.S. power and influence are understood by some of our leading thinkers has been nothing short of astonishing. Shortly before the fall of the Berlin Wall, for example, Yale's Professor Paul Kennedy was warning against American "imperial overstretch" in his bestseller, *The Rise and Fall of the Great Powers* (Vintage, 1989). More recently, and especially in the aftermath of 9-11, Kennedy has been pushing for a Pax Americana. "Nothing has ever existed like this disparity of power," Kennedy wrote in London's *Financial Times*. "The Pax Britannica was run on the cheap . . . right now all the other navies in the world combined could not dent American maritime supremacy." Indeed, for Kennedy, no empire has ever even been in the same league: "Napoleon's France and Philip II's Spain had powerful foes and were part of a multipolar system. Charlemagne's empire was merely Western European in its stretch. The Roman Empire stretched further afield, but there was another great empire in Persia and a larger one in China. There is no comparison."

Kennedy is really more the norm than the exception. Increasingly, on both sides of the political spectrum, imperialism has been acquiring a new intellectual legitimacy. Enter Max Boot and his exhortation to imperialism: *The Savage Wars of Peace: Small Wars and the Rise of American Power.* It is an entertaining, provocative, and often insightful history of America's "small wars" or low-intensity conflicts — i.e., military operations and engagements other than war. Boot takes his title from Kipling's famous, indeed notorious, February 1899 imperial exhortation to the United States, "The White Man's Burden,"

> *Take up the White Man's burden —*
> *The savage wars of peace —*
> *Fill full the mouth of Famine*
> *And bid the sickness cease;*
> *And when your goal is nearest*
> *The end for others sought,*
> *Watch sloth and heathen Folly*
> *Bring all your hopes to nought.*

Rudyard Kipling (1865-1936) is probably the most significant literary advocate of imperialism in the English language. He was far and away the

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biggest icon of the British Empire, promoting the imperial prerogative of bettering the "lesser breeds without the Law." And although Kipling was less a racist than is generally thought, Boot's casting himself in with the poet is no less courageous in this era of political correctness.

Boot, the editorial features editor of the *Wall Street Journal*, has sounded this imperial note before and loudly. So it is no surprise that he has crafted a thumping good, rock'em-sock'em sort of narrative. Heroics, adventure, graphic battles, gory details, etc. — it is almost enough to rouse even a dyed-in-the-wool pacifist to chase imperial glory in jodhpurs and a pith helmet. The book is both scholarly and effective, and it would certainly have met with Kipling's approval.

When I first picked up Max Boot's book, however, the first Kipling poem that came to mind, oddly enough, was not "The White Man's Burden," but his lesser known "Danegeld,"

It is always a temptation for a rich and lazy nation,
To puff and look important and to say: —
"Though we know we should defeat you, we have not the time to meet you,
We will therefore pay you cash to go away."
And that is called paying the Dane-geld;
But we've proved it again and again,
That if once you have paid him the Dane-geld
You never get rid of the Dane.

Which nicely captures the way the West has treated Islamist thug states, particularly during the United Nations World Conference Against Racism in Durban, South Africa — just one week before the hijacked airliners slammed into the World Trade Center and the Pentagon. Kipling's little ditty also pretty well encapsulates the dangers of not properly taking care of a festering problem. If the Treasury were to be tapped, it would be better to chastise the thugs through a show of force than to pay them off. Force is older and generally more eloquent than cash, and self-preservation usually trumps economic gain. Indeed, sometimes there is nothing like a small war to set things right.

And as Max Boot's book makes clear, our most recent small war in Afghanistan is closer to our historical norm than the Civil War, Korea, or either of the world wars. The U.S. has patrolled and fought undeclared wars and engaged in military interventions in the Marquesas Islands, Samoa, Korea, China, the Philippines, Cuba, Panama, Nicaragua, Mexico, Haiti, the Dominican Republic, Russia, Grenada, Somalia, the former Yugoslavia, and across North Africa. (In 1882 in Alexandria, Egypt, "American sailors and marines . . . [became] the first foreign troops to enter the city center.") Indeed, "between 1800 and 1934," Boot informs us, "US Marines staged 180 landings abroad. The army and navy added a few small-scale engagements of their own. Some of these excursions resulted in heavy casualties; others involved almost no fighting. Some were concluded in a day or two; others dragged on for decades. Some were successful, others not." What ties them all together, however, is their largely imperial nature, and through

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them Boot tries to chronicle the political course of American Empire.

He presents a basic taxonomy of these small imperial wars: punitive (to punish the bad guys), protective (to protect U.S. citizens and interests in a foreign land), pacification (the occupation of foreign territory to bring peace and order to rebellious and unlawful masses), and profiteering (the demand for trade or territorial concessions). "The primary characteristic of small wars," says Boot, "is that there is no obvious field of battle; there are only areas to be controlled, civilians to be protected, hidden foes to be subdued." For Boot, the term "small wars" refers strictly to tactics, not the scale of conflict. So the Spanish-American War is out — but Vietnam is in, and how.

Probably his two most interesting and crucial chapters are on Vietnam: its history and its legacy. In telling Vietnam's history, Boot asserts that by the time the U.S. was embroiled in the conflict, the military establishment had forgotten all about the incisive *Small Wars Manual* the Marine Corps had developed during the 1930s (the Marines having long embraced these imperial missions as part of their reason for being). A rather hefty claim, though Boot makes it a plausible one. He then "reinterprets the Vietnam War through the prism of small wars," persuasively arguing that Gen. William Westmoreland's decision to fight a conventional war played directly into North Vietnamese Gen. Vo Nguyen Giap's hands and ensured a U.S. defeat.

Boot also tells the history of the U.S.'s "other war" in Vietnam — "the pacification struggle," also known as "nation building." Most important of these efforts was the Combined Action Program, a Marine initiative modeled after the constabularies they had previously set up in Haiti, the Dominican Republic and Nicaragua. In concert with South Vietnam's Popular Forces militia, the CAP created villages and hamlets that helped consolidate support for the American forces and for the South Vietnamese government. These pacified villages also helped to stave off Vietcong infiltration. Boot rather convincingly argues that this pacification program was a tremendous success.

When it comes to Vietnam's legacy, however, Boot really takes the gloves off, especially laying into Gen. Colin Powell's eponymous doctrine articulated during his tenure as chairman of the Joint Chiefs of Staff during the first Bush administration: "that America should unsheathe its sword only when its vital interests are threatened, and then only if it is prepared to use overwhelming force with total public support to achieve a fast victory and then go home." Boot elucidates how ill-suited this doctrine is for the real world and especially for the post-Vietnam conflicts that America has been involved in: Iraq, Somalia, Haiti, Bosnia, and Kosovo. Boot also quickly disproves the "body bag syndrome," according to which support for a military excursion wanes with the first U.S. casualties, as well as the idea that most soldiers are averse to fighting small wars.

All of which leads to Boot's final chapter, "In Defense of the Pax Americana." Here, Boot reiterates a few of the lessons he takes from American history: There is absolutely

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nothing novel about "wars without a declaration of war," "wars without exit strategies," "wars that are fought less than 'wholeheartedly,'" "wars in which US soldiers act as 'social workers,'" "wars in which America gets involved in other countries' internal affairs," "wars without a 'vital national interest,'" "wars without significant popular support," or "wars in which US troops serve under foreign command." Boot establishes all of these lessons very firmly. What is missing, however, is a larger normative argument. Fine, yes, these sorts of conflicts pepper our nation's history, but so what? Why does that mean we should embrace them now?

A Pax Americana does not seem likely, given the higgledy-piggledy nature of American "imperial" efforts. In this respect, Boot's take-your-pick approach to persuasion bespeaks the fact that Americans are unlikely imperialists.

BOOT DOES NOT quite get around to arguing for a coherent ideology or a historical narrative gloss linking these small wars. He does not posit a liberty doctrine or a variant of manifest destiny or some such vision that might reasonably demonstrate the quest for empire. He merely highlights a continuity of small war engagements — each of them has an imperial tinge, but together they do not make up a broad, overarching imperial*ism*.

He makes several attempts to ground Pax Americana, but, frankly, they are not so compelling. "A world of liberal democracies would be a world much more amenable to American interests than any conceivable alternative"; "without a benevolent hegemon to guarantee order, the international scene can degenerate quickly into chaos and worse"; "why not use some of the awesome power of the US government to help the downtrodden of the world, just as it is used to help the needy at home?" Yes, again, these all sound well and good. But is the world truly yearning for an imperial lawgiver? Does America truly wish to unilaterally be that lawgiver? Would America wish to be part of a multilateral effort to better the world?

Since around 1945, the U.S. has played the imperial role very indirectly: exercising economic leverage through multinational corporations and international agencies like the International Monetary Fund and political power through "friendly" indigenous regimes. But as Britain discovered in the nineteenth century, there are limits to what can be achieved through informal imperialism. Puppet rulers can be overthrown by revolution, or simply through a tribal power grab. As a practical matter, foreign aid has often served mainly as an enabler for corruption among ruling elites when it has not

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been misdirected into prestige projects inimical to sound development or used as a backdoor way to subsidize arms sales or engineering projects. Also, new regimes can default on their debts, disrupt trade, and go to war with their neighbors — even sponsor terrorism.

Indeed, this sort of indirect imperialism may illuminate the fundamental problems of the Arab states. Unlike Africa, Asia, Australia, and the Americas, the Arabs have never come under direct European colonial rule. Instead, after the collapse of the Ottoman Empire, the Arabian Peninsula was carved up into "spheres of influence." So, rather than occupy the country, establish the rule of law, introduce a mandarin class, and set up other features of a civil society, the British, French, and, later, the Americans simply looked for some pliable sheik and installed him in the palace. Indeed, this is very much the problem that the Western world, particularly the U.S., still faces.

During the Clinton years, the United States, slowly and rather unreflectively, responded to crises of this sort by intervening directly in the internal affairs of faraway countries. True, it tried to do so with a veneer of multilateralism, acting in the name of the United Nations or NATO. But the precedents set in Bosnia and Kosovo were significant. Such territories became a new kind of colony: international protectorates underwritten by U.S. military and monetary might. Essentially, it is the imperialism that evolved in the 1920s when League of Nations mandates were the polite word for what were the post-Versailles treaty colonies. Does any of this quite reach the level of empire? Perhaps — but only indirectly.

This indirect international influence is not the same as global hegemony. Nor does a Pax Americana seem likely, given the higgledy-piggledy nature of American "imperial" efforts. In this respect, Boot's take-your-pick approach to persuasion bespeaks the fact that Americans are unlikely imperialists. After all, despite our rich history of small war engagements, Americans remain mostly unaware that these conflicts ever happened; even our armed services, according to Boot, have only very recently become aware of this tradition and are still not yet of the right frame of mind about it. Indeed, this is largely why Boot decided to write this delightfully absorbing history to begin with.

As OUR NATION was born in a war for independence from imperial rule, it should not be so surprising that Americans have not been eager to rule others in that way. Further, Americans — if electoral and civic participation is anything to go by — are generally not so interested in politics and government-directed social-engineering projects. If we don't care for it at home, why should we wish to ship it abroad? (Though it is most assuredly better out than in.) Besides, our nation is currently a net importer of capital and talent, and we are still considered prime relocation potential for immigrants and asylum seekers around the globe. The U.S. is simply not the premier producer of would-be colonial emigrants.

Seen from a more global and long-term historical perspective, however, the ultimate problem for Pax Americana is simply that Americans do not have the stomach to pursue a prop-

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er imperialism. Nor have we any longer a national sense of honor that might compel us to conquer others.

In very rough terms, empire-building has always been first and foremost about national gain — fortune, power, and security. Of secondary, though not insignificant, importance is the moral self-justification: acting as a stabilizing and, more important, a controlling force for good in the world. In this respect, the best case for direct and formal Pax Americana is hinted at in Boot's title. It is Kipling's "White Man's Burden," the moral imperative to better the lot of the benighted, bemused, and besotted of the world. It is rooted in what are now considered archaic, if not evil, notions of the moral superiority of one's way of life and the rightness of forcing it upon others for their own sake. Either you believe that might makes right and God is backing you to the hilt, or you don't. That is the point of global hegemony and has been from time immemorial. It is, to be sure, a religious and missionary frame of mind and one that is almost entirely foreign to the American experience.

Though Pax Americana seems entirely unlikely, America does find itself, more or less by default, as the lone superpower. And thus Boot is on much stronger ground when he elaborates his basic theme: Small wars, a regular feature of our past, are an inevitable feature of our present and future. We should embrace them and fight them well. Such conflicts are an unavoidable outgrowth of the global reach of America's power and interests, as they have been since our independence. America can't be the big boy on the Western block and also avoid small wars.

If, further, we are to fight these small wars, it is necessary to be "bloody-minded" about it — we need to stop being squeamish about exercising our power and flexing our muscles. The specter of Vietnam is just a lot of nonsense wedded to very specific, historical, tractable, and avoidable mistakes. While this might seem like meager justification for the pursuit of empire, it all happens to be quite true. Further, Boot's book helps establish that historical continuity implies a certain commonality. More important, his argument does not in any way entail some idealized virtue about the power and efficacy of man's ability to reshape the world around him to his liking, nor does it rely upon some vision of the world as it ought to be.

Which brings Kipling back to mind:

With the Hopes that our World is built on they were utterly out of touch.
They denied that the Moon was Stilton; they denied she was even Dutch.
They denied that Wishes were Horses; they denied that a Pig had Wings.
So we worshipped the Gods of the Market Who promised these beautiful things.

When the Cambrian measures were forming, They promised perpetual peace.
They swore, if we gave them our weapons, that the wars of the tribes would cease.
But when we disarmed They sold us and delivered us bound to our foe,
And the Gods of the Copybook

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Headings said: "Stick to the Devil you know."

Fortunately for us, Boot elucidates very nicely the devil our country knows best and helps establish what should have been obvious to students of our nation's history: Small wars are not going away.

The Age Of Genocide

By Derek Chollet

Samantha Power. *"A Problem from Hell": America and the Age of Genocide.* Basic Books. 610 pages. $30.00

In April 1994, the month that Rwanda's government-backed Hutu militias began slaughtering hundreds of thousands of ethnic Tutsis in what Samantha Power describes as the "fastest, most efficient killing spree of the twentieth century" — reaching a death toll of at least 800,000 in 100 days — President Bill Clinton's National Security Adviser, Anthony Lake, issued a statement calling on Rwanda's Hutu military leaders to "do everything in their power to end the violence immediately." Given what was happening, that a senior U.S. official would make such a standard demand is not surprising. But Lake's statement proved to be the only official public attempt to prod the Rwandan government to stop the bloodshed. Neither he nor President Clinton ever even bothered to call a meeting to discuss what was happening, or seriously considered whether there was anything more the U.S. could do. Looking back six years later, Lake candidly admits that this episode, topped by his lackluster and lonely effort at influencing events, was, in his words, "truly pathetic."

Reading Samantha Power's stunning narrative of American inaction during the Rwanda crisis, many will certainly come to share Lake's conclusion. This was genocide, plain and simple. Innocents were systematically and ruthlessly targeted for harm not because of anything they did, but for who they were. And despite all the earnest post-Holocaust rhetoric of "never again" or the fact that the U.S. was obliged to act according to the Genocide Convention the Senate ratified in 1986, Washington did nothing.

This sorry fact, added to the July 1995 Bosnian Serb massacre of Muslims in Srebrenica (where at least 7,000 men and boys were killed while the U.S. and the United Nations stood aside) and the 1999 Kosovo crisis (where NATO pilots were forced to bomb at 10,000 feet while Slobodan Milosevic's army rampaged through ethnic Albanian areas), will cause some to conclude that this reflects little more than the Clinton administration's inept handling of important foreign policy challenges. A team more sure of itself and confident with American power would have acted differently. Perhaps

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Derek Chollet served in the State Department during the Clinton administration.

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true. To be sure, this book will not be happy reading for any former member of the Clinton administration.

Yet to lay the blame in this way is not only too simple; it is unfair. For if Power's book shows anything, it is that the U.S. has never placed a very high priority on preventing or acting against those committing genocide. This is a trend with remarkable historical and bipartisan consistency — from Washington's reluctance to pressure Turkey to halt the massacre of over a million Armenians during World War I and the infamous refusal to bomb the German railroad lines leading to Auschwitz in World War II, to its failure to act against the Khmer Rouge killing fields in Cambodia during the 1970s and its decision to continue an engagement policy with Saddam Hussein despite clear evidence that he used chemical weapons against his own people in the late 1980s. By telling each of these stories in considerable detail and with impressive passion, Power shows that inaction in the face of genocide is a kind of American tradition.

Therein lies the puzzle: How can it be that a country where the memory of the Holocaust has such strong resonance often finds itself unwilling to deter or prevent similar atrocities from recurring?

But is it an American problem? Horrible as these events were, is what happened during the twentieth century in Turkey, Cambodia, Iraq, or the Balkans really America's responsibility? Obviously, at the time, most policymakers concluded no. And they did so with the conviction that what they were doing was right, that they were acting as U.S. interests dictated. As this book shows, America's willingness to defend freedom, protect innocents, and champion human rights often goes only so far.

Therein lies the puzzle: How can it be that a country where the memory of the Holocaust has such strong resonance — with a culture that produces and embraces such powerful movies as *Schindler's List* and a government that puts such world-class museums as the Holocaust memorial on Washington's national mall — often finds itself unwilling to deter similar atrocities or prevent them from recurring?

GOVERNMENT officials scramble to answer this question with several explanations — the most common being that they did not act because they knew neither the scope nor scale of what was happening. It is true that in the thick of a crisis, particularly one in places that are relatively closed off from the rest of the world like Rwanda and Cambodia, imperfect information is a real problem. Since these are also cases of armed conflict, genocidal acts are often explained away as acts of war.

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Moreover, systematic mass annihilation seems so unreal, so terrible, so "irrational" that frequently outsiders simply don't believe the stories they hear — we can suffer from a failure of imagination. Refugee survivors are often dismissed as unreliable witnesses, and those intelligence analysts or journalists who sound the alarm are often disregarded as too "emotional."

Yet once indisputable evidence of genocide emerges — and this book shows that it almost always does — officials still are reluctant to act. Borrowing from the political economist Albert O. Hirschman, Power explains that their reasons for their inaction typically take the form of three categories of justification: futility, perversity, and jeopardy. Intervention (whether military or diplomatic) is usually believed to be futile; it is often too late to help. But even when some kind of intervention is possible, policymakers tend to think that doing so would actually be counterproductive, causing perverse outcomes like accelerating the bloodshed even further. Or they are reluctant to act because doing so would bring political and material costs that might jeopardize more important interests or priorities.

It is this last point that presents the biggest problem for those, like Power, who believe that the U.S. utterly failed by not acting to stop genocide. In case after case, Washington's policymakers did what they did — acting not enough, or not at all — not because they were cynical or callous or craven, but because they did not believe that sufficient U.S. interests were at stake. They didn't do more because they didn't want to. The trade-offs were considered too risky, the downsides too great, the potential costs too steep. To be sure, looking back, policymakers down the line express regret at not doing more to stop the slaughter of innocents. But in the moment they saw no better way out. What in retrospect seems to be an easy call did not appear so at the time.

Therefore, these cases are not just examples of Hirschman's jeopardy. They illustrate the fact that by definition, all hard choices are dilemmas; that even the right decision can have catastrophic consequences; and that the challenge of policymaking is to navigate what Isaiah Berlin once called the "unavoidability of conflicting ends." The U.S. has overwhelming military and economic resources, yes, but it also has vast global responsibilities and interests. Tragically, even the lone superpower cannot escape triage.

Is it possible that stopping genocide can move its way up the ladder of American interests? Power argues that the "battle [has been] repeatedly lost in the realm of domestic politics," and in a perverse way, the system worked — no U.S. president has ever paid a real political price for not responding to genocide. Therefore, Power's book becomes a (somewhat self-serving) call to arms: Activists like herself must do more to raise the political costs of inaction. She emphasizes the important role of journalists in exposing acts of genocide and heralds the work of those "screamers" — usually young, mid-level bureaucrats — who try, but usually fail, to work from the inside to press action, often at the expense of their careers.

Domestic politics are certainly important, but Power overstates the

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case. Actually, her research shows the opposite: that domestic political pressure has a very poor track record in compelling the government to act against genocide. Even in recent examples of genocide where the U.S. did intervene the most forcefully — Bosnia and Kosovo — it did so mainly for reasons other than domestic politics.

The case can be made (and Power begins to make it) that preventing genocide is *a vital American interest, not just for the obvious moral reasons, but for security interests too. Genocide leaves a dangerous aftermath.*

Power argues otherwise, asserting that in Bosnia during the summer of 1995 — the one case where the U.S. finally resorted to military force after three years of refusing to get involved – policymakers were responding to political pressures from such influential leaders as the then-Republican Senate Majority Leader, Robert Dole. This misinterprets what happened. Dole's efforts to force the Clinton administration to lift the arms embargo and assist the Bosnian Muslims were certainly noticed, but they did not become the driving force behind American decision-making. Washington acted because its policymakers finally became convinced that vital interests were at stake — namely, American leadership in NATO if not the future survival of the alliance itself. Everyone involved in the actual decision, from President Clinton to Richard Holbrooke and Tony Lake to Warren Christopher, as well as outside scholars of the period, cite this as the more important reason.

So raising domestic political costs is not the silver bullet Power makes it out to be. But this does not necessarily leave us with the depressing conclusion that unless genocide threatens more important interests, the United States is forever locked into making only token efforts to stop it. The case can be made (and Power begins to make it) that preventing genocide *is* a vital American interest, not just for the obvious moral reasons, but for security interests too. Genocide leaves a dangerous aftermath: It undermines regional stability, destroys societies, and creates mass refugees in need of assistance or bent on revenge. And tolerating genocide signals to dictators that mass murder is legitimate. Even when the U.S. chooses not to act, it almost always has to deal with the consequences.

As Power puts it:

> [T]he walls the United States tries to build around genocidal societies almost inevitably shatter. States that murder or torment their own citizens target citizens elsewhere. Their appetites become insatiable. Hitler began by persecuting his own people and then waged war on the rest of Europe and, in time, the United States. Saddam Hussein wiped out rural Kurdish life and

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> then turned on Kuwait. . . . [T]he U.S. now has reason to fear that the [poisonous] potions Hussein tried out on the Kurds will be used next on Americans.

Particularly in a post-September 11 environment, this rings all too true. In fact, this is an indispensable part of the case that George W. Bush and his team are now making about the threat from Saddam. Those that commit genocide are, as the president might say, evildoers in the extreme — and there can be no doubt that they are bent on destruction and oppression and, with the right tools, would threaten the United States directly. So acting to prevent or stop genocide, although often lumped under the rubric "humanitarian intervention," is justified by much more than a sense of morality or humanitarian goodwill. It is necessary to protect U.S. security interests.

Only time will tell, but there is every indication that President Bush believes this and is prepared to act on it. His administration's recent effort to develop a doctrine of preemption, which has caused so much hand-wringing in liberal circles, might actually turn out to be the crucial shift. Although its main focus correctly rests on combating the noxious cocktail of extremism and weapons of mass destruction, it inherently contemplates running risks and accepting costs to do what is right. This is an activist, interventionist doctrine, one that will not allow murderers to hide behind sovereignty. It has a moral core, but more important, it asserts that leaders who commit atrocities like genocide are not just dangers to their own people or their neighbors — if left unchecked, they will metastasize into threats to America.

Samantha Power has written one of those rare books that will not only endure as an authoritative history, but is a timely and important contribution to a critical policy debate. Washington officials would be wise to heed its lessons — and, in fact, there is evidence that some already have. Last fall, after the *Atlantic Monthly* excerpted Power's chapter on Rwanda, a National Security Council aide sent a memo to President Bush summarizing her argument and detailing the Clinton administration's reluctance to act. President Bush's four-word response to this failure to stop genocide, which he jotted in the memo's margins, could not have been clearer: "NOT ON MY WATCH."

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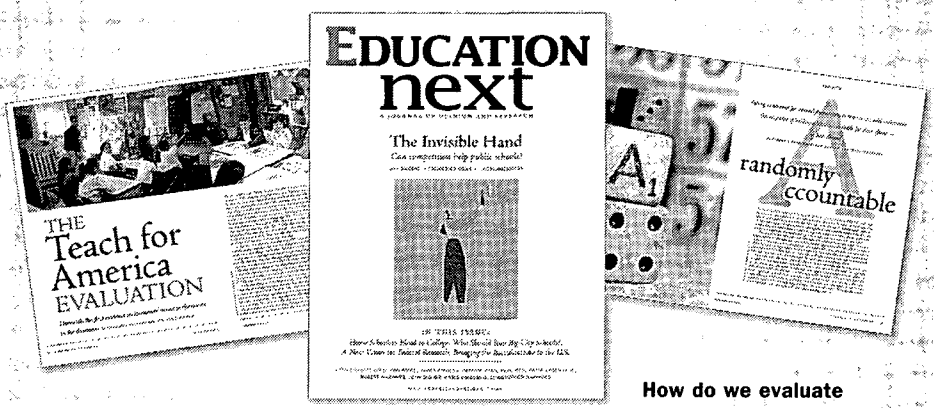

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LETTERS

Doing Justice Differently

SIR, — Abraham D. Sofaer and Paul R. Williams make a good contribution to the ongoing debate about the policy and legal merits of the president's November 13 Military Order ("Doing Justice During Wartime," February/March 2002). They offer a succinct and correct statement of the problem facing the United States — "unconventional warfare conducted by unprivileged combatants" — and proceed to lay out good rebuttals of various criticisms directed at military commissions. Likewise, they do a good job debunking the currently fashionable proposals to mete out "international justice" to unlawful combatants, either through the International Criminal Court or a specialized international terrorism court. Unfortunately, the article goes off the rails in its final section, which explores the possibility of a hybrid judicial system under which U.S. military commissions would try most suspected unlawful combatants, while an expanded and augmented International Criminal Tribunal for Yugoslavia would handle "top-level suspects and those who do not come into U.S. custody."

While this hybrid proposal is a middle ground between those who believe that U.S. military commissions offer the best venue for trying unlawful combatants and the proponents of wholesale internationalization, it is plagued by fundamental legal and policy problems. Here, it is useful to step back and reflect briefly on why military commissions are a useful policy option in the current war against international terrorism and its state sponsors. The fact that they are constitutional (as applied to unlawful combatants during time of war) and permissible under the international law does not, by itself, suggest that they ought to be used. From the policy perspective, the commissions' major advantages are that they are capable of rendering speedy trials, protecting sensitive national security information, and delivering — at least for the more senior and culpable unlawful combatants — harsh penalties, up to and including the death penalty. Whatever else can be said about the ICTY, its trials would possess none of these features.

Moreover, in the aftermath of September 11 and the oft-proclaimed desire of various terrorist leaders to acquire weapons of mass destruction, it is clear that unlawful combatants pose a grave threat both to the United States and to the civilized world as a whole. While a wide range of military, diplomatic, and economic means is being used to deal with this threat, the symbolic aspects of the struggle are highly important. While lawful combatants who commit war crimes also merit prosecution and punishment, international law has always recognized a distinction between individuals who lawfully are privileged to use force and those who are not. This distinction remains important, despite the fact that

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some war criminals may have perpetrated far more heinous offenses (such as mass murder) and should be punished much more harshly than low-level unlawful combatants. To put it in a nutshell, the relevant domestic analogy is between police officers, who are authorized to use force but can be punished if they violate the rules of engagement, and criminals, who can be punished for merely using force no matter what the circumstances. Given this context, an entity like the ICTY, whose jurisdiction covers all persons in the former Yugoslavia, including civilians and lawful combatants, presents precisely the wrong symbolic venue.

Maintaining this distinction is now more important than ever before. Such decisions as denying al Qaeda and Taliban members POW status and trying them by military commissions are an indispensable component of an overall campaign to delegitimize unlawful combatants and portray them as a scourge of humanity. This effort is all the more important given the palpable reluctance of many of our allies to acknowledge the "good vs. evil" aspect of the threat.

Any use of the ICTY would also raise a very significant legal issue regarding the authority of the United Nations Security Council. It is not at all obvious that the council could endow the ICTY with the authority to try all existing and future unlawful combatants. To do so would require the Security Council to invoke its Chapter 7 authority, permitting it to take measures to maintain or restore international peace and security. Yet it is at least possible that unlawful combatants may be present in circumstances that would not support Security Council action. Supporting such a promiscuous use of the council's Chapter 7 authority would only reinforce the unfortunate and incorrect view that the Security Council has a plenary power to do whatever it wishes. While the U.S. has a veto power in that forum, it retains a compelling interest in preserving state sovereignty by, among other things, promoting a high threshold for Security Council intervention.

DAVID B. RIVKIN JR.
Washington, D.C.

Culture Clash

SIR, — Kudos to Stanley Kurtz for his prescient comments about Bernard Lewis's superb new book ("Root Causes," April/May 2002). Kurtz does us all a marvelous favor by succinctly reviewing the historical perspective that has embroiled the Israelis and Arabs in their current war. But it is a pity that principled scholars like Lewis get short shrift from the media while Edward Said and others of like mind are provided an unfettered platform to hurl bombast down on those who don't support their pro-Arab stance.

CHARLES SNEE
Troy, Ohio

SIR, — Stanley Kurtz's description of family/clan/tribal attitudes could explain much about lack of economic development, but the kind of society you describe actually sounds compatible with a Jeffersonian model of government. The key to the success of any democratic system is the extent to which informed citizens participate in it. Improvements in education (especially for girls) and media would

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appear to be key here.

As to separation of church and state, when you say "Western separation of church and state is ultimately a product of our gradual evolution toward a non-kin-based individualist society," I have to wonder if you aren't mixing up causes and effects. No doubt the growth of individualism made certain philosophical and religious ideas more attractive to certain people and accelerated the splintering of Western Christendom into a multitude of sects. But if you are looking for root causes, I would think that you would have to identify the printing press, increased literacy, indignation at corruption in the Catholic Church, and the extent to which that underpinned other injustices as the primary contributors to the development of Protestantism in the first place. Britain's North American colonies became home to many religious nonconformists, some of whom felt perfectly comfortable creating theocracies and imposing their religious views on others, but none of whom would have been comfortable with the idea of a state religion unless said religion was their own. The idea that there should be no state religion was an example of sensible public policymaking for a religiously diverse society by late eighteenth century American lawmakers.

It seems that in Muslim countries the idea of separation of church and state, instead of protecting religious freedom for all, became a tool with which religious minorities (Sunnis in Iraq, Alawites in Syria) managed to tyrannize religious majorities. Maybe this can be explained partly by the failure or refusal of the majority groups to pay much attention to what the state was doing, or to appreciate what it could do during its formative stages. Again, it would seem that information and participation would be the key to making separation of church and state work in those societies the way it works here.

JIM MCDONNELL
Baton Rouge, Louisiana

Lawyers' Ethics

SIR, — I have no quarrel with the proposition that a lawyer representing a defendant in a criminal matter ought not to suffer any moral taint by reason of the representation (Lee A. Casey and David B. Rivkin Jr., "Devil's Advocates," February/March 2002). In such instances, defense counsel ensures that society itself honors the rules it has created to limit its own liability in depriving an accused of life, liberty, or property. I would even go so far as to say that in any action, civil or criminal, involving the government as a party, counsel representing a private party in conflict with the government is ensuring that the government is complying with its own rules and its own laws, and thus should not be condemned morally by reason of such representation.

But it is a different story when a partner in a large private law firm actively seeks to earn high fees by representing private interests in conflict with other private interests. In such situations, it will not do to point piously to the rules of professional conduct and intone that everyone has a right to a lawyer. Such a defense smacks of the famous comment by Anatole France: "The law in its majesty equally forbids the rich as well as the poor to sleep

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under bridges." Well, yes — but just as that law had no practical application to the rich, so too the rich need not rely on the right of every man to a lawyer to call on some public-spirited counsel to step forth. They simply pay for the lawyers they need. Large corporations and wealthy individuals have crowds of lawyers pounding on their doors seeking to represent them. Where a lawyer actively seeks to represent a private interest in conflict with other private interests for purposes of substantial personal financial gain, it is absolutely appropriate to burden that lawyer with the same moral taint (if taint there be) carried by the client.

Nor should a lawyer who is in charge of such a civil case, and in a position to decide which arguments are made, be allowed to disassociate himself from the arguments he makes by claiming, after the fact, that no one should presume he personally agreed with every argument he made. Lawyers do not make arguments in court by diffidently saying, "Here is an argument; believe it if you wish." Instead, they muster all the apparent sincerity they can display and give every impression of personally believing every argument. It cannot be right that when a lawyer makes arguments to the audience that matters — the judges and the juries who decide the case — the lawyer can claim to believe every argument, but then, after the case is over and the lawyer is before a new audience that finds the arguments distasteful, he can turn around and say, "Don't assume I meant it." To be morally consistent, a lawyer must convey the same level of belief in the argument to the people who matter to the client (the judge and jury) as to those who matter to the lawyer (the public). There is nothing moral in stating that the lawyer may display two different levels of apparent sincerity depending on which is more to the benefit of the lawyer. Such a position turns venality into morality.

Lastly, it is not correct that lawyers bear a special obligation, greater than that assumed by the public at large, to refrain from casting aspersions on the choices made by other lawyers. To the contrary, precisely because practicing lawyers are in the best position to know just how clients are wooed and just how cases are argued, lawyers have a particular burden to illuminate the moral implications of legal practice, despite the potential adverse impact on their ability to rake in fees and gain advancement within the hierarchies of their firms. The practice of law involves making choices that have moral implications, and often requires a choice between what is moral and what is remunerative. Desire for financial gain does not justify the attempt to avoid the consequences of those choices.

EDWARD SISSON
Washington, D.C.

LETTERS TO THE EDITOR

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